

By: Senator(s) Jackson (15th)

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2859

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL EXEMPT FROM
3 THE CERTIFICATE OF NEED REVIEW PROCESS THE ACQUISITION AND
4 OPERATION OF A MAGNETIC RESONANCE IMAGING UNIT AND A LINEAR
5 ACCELERATOR IN THE CITY OF STARKVILLE, OKTIBBEHA COUNTY,
6 MISSISSIPPI, TO BE JOINTLY ACQUIRED AND OPERATED BY MISSISSIPPI
7 STATE UNIVERSITY AND A HEALTH CARE PROVIDER; AND FOR RELATED
8 PURPOSES.

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

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

12 41-7-191. (1) No person shall engage in any of the
13 following activities without obtaining the required certificate of
14 need:

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

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

24 (c) Any change in the existing bed complement of any
25 health care facility through the addition or conversion of any
26 beds or the alteration, modernizing or refurbishing of any unit or
27 department in which the beds may be located; however, if a health
28 care facility has voluntarily delicensed some of its existing bed
29 complement, it may later relicense some or all of its delicensed
30 beds without the necessity of having to acquire a certificate of

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

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

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

64 (xi) Ambulatory surgical services;
65 (xii) Magnetic resonance imaging services;
66 (xiii) Extracorporeal shock wave lithotripsy
67 services;
68 (xiv) Long-term care hospital services;
69 (xv) Positron Emission Tomography (PET) services;
70 (e) The relocation of one or more health services from
71 one physical facility or site to another physical facility or
72 site, unless such relocation, which does not involve a capital
73 expenditure by or on behalf of a health care facility, (i) is to a
74 physical facility or site within one thousand three hundred twenty
75 (1,320) feet from the main entrance of the health care facility
76 where the health care service is located, or (ii) is the result of
77 an order of a court of appropriate jurisdiction or a result of
78 pending litigation in such court, or by order of the State
79 Department of Health, or by order of any other agency or legal
80 entity of the state, the federal government, or any political
81 subdivision of either, whose order is also approved by the State
82 Department of Health;
83 (f) The acquisition or otherwise control of any major
84 medical equipment for the provision of medical services; provided,
85 however, (i) the acquisition of any major medical equipment used
86 only for research purposes, (ii) the acquisition and operation of
87 a linear accelerator and a magnetic resonance imaging unit in
88 Starkville, Oktibbeha County, Mississippi, to be operated jointly
89 by Mississippi State University and a health care provider
90 selected and approved by the Board of Trustees of State
91 Institutions of Higher Learning, which linear accelerator and MRI
92 unit shall be available to Mississippi State University for
93 research purposes two-thirds (2/3) of the time and shall be
94 available to the health care provider one-third (1/3) of the time
95 for private clinical, diagnostic and treatment purposes, and any
96 and all capital expenditures related to this project between

97 Mississippi State University and the approved health care
98 provider, including, but not limited to, the acquisition of the
99 linear accelerator, the magnetic resonance imaging unit and any
100 other radiological modalities, the offering of linear accelerator
101 and magnetic resonance imaging services, and the construction of
102 facilities in which to locate these services, and (iii) the
103 acquisition of major medical equipment to replace medical
104 equipment for which a facility is already providing medical
105 services and for which the State Department of Health has been
106 notified before the date of such acquisition shall be exempt from
107 this paragraph; an acquisition for less than fair market value
108 must be reviewed, if the acquisition at fair market value would be
109 subject to review;

110 (g) Changes of ownership of existing health care
111 facilities in which a notice of intent is not filed with the State
112 Department of Health at least thirty (30) days prior to the date
113 such change of ownership occurs, or a change in services or bed
114 capacity as prescribed in paragraph (c) or (d) of this subsection
115 as a result of the change of ownership; an acquisition for less
116 than fair market value must be reviewed, if the acquisition at
117 fair market value would be subject to review;

118 (h) The change of ownership of any health care facility
119 defined in subparagraphs (iv), (vi) and (viii) of Section
120 41-7-173(h), in which a notice of intent as described in paragraph
121 (g) has not been filed and if the Executive Director, Division of
122 Medicaid, Office of the Governor, has not certified in writing
123 that there will be no increase in allowable costs to Medicaid from
124 revaluation of the assets or from increased interest and
125 depreciation as a result of the proposed change of ownership;

126 (i) Any activity described in paragraphs (a) through
127 (h) if undertaken by any person if that same activity would
128 require certificate of need approval if undertaken by a health
129 care facility;

130 (j) Any capital expenditure or deferred capital
131 expenditure by or on behalf of a health care facility not covered
132 by paragraphs (a) through (h);

133 (k) The contracting of a health care facility as
134 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
135 to establish a home office, subunit, or branch office in the space
136 operated as a health care facility through a formal arrangement
137 with an existing health care facility as defined in subparagraph
138 (ix) of Section 41-7-173(h).

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

146 (a) The department may issue a certificate of need to
147 any person proposing the new construction of any health care
148 facility defined in subparagraphs (iv) and (vi) of Section
149 41-7-173(h) as part of a life care retirement facility, in any
150 county bordering on the Gulf of Mexico in which is located a
151 National Aeronautics and Space Administration facility, not to
152 exceed forty (40) beds. From and after July 1, 1999, there shall
153 be no prohibition or restrictions on participation in the Medicaid
154 program (Section 43-13-101 et seq.) for the beds in the health
155 care facility that were authorized under this paragraph (a).

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

163 (c) The department may issue a certificate of need for
164 the addition to or expansion of any skilled nursing facility that
165 is part of an existing continuing care retirement community
166 located in Madison County, provided that the recipient of the
167 certificate of need agrees in writing that the skilled nursing
168 facility will not at any time participate in the Medicaid program
169 (Section 43-13-101 et seq.) or admit or keep any patients in the
170 skilled nursing facility who are participating in the Medicaid
171 program. This written agreement by the recipient of the
172 certificate of need shall be fully binding on any subsequent owner
173 of the skilled nursing facility, if the ownership of the facility
174 is transferred at any time after the issuance of the certificate
175 of need. Agreement that the skilled nursing facility will not
176 participate in the Medicaid program shall be a condition of the
177 issuance of a certificate of need to any person under this
178 paragraph (c), and if such skilled nursing facility at any time
179 after the issuance of the certificate of need, regardless of the
180 ownership of the facility, participates in the Medicaid program or
181 admits or keeps any patients in the facility who are participating
182 in the Medicaid program, the State Department of Health shall
183 revoke the certificate of need, if it is still outstanding, and
184 shall deny or revoke the license of the skilled nursing facility,
185 at the time that the department determines, after a hearing
186 complying with due process, that the facility has failed to comply
187 with any of the conditions upon which the certificate of need was
188 issued, as provided in this paragraph and in the written agreement
189 by the recipient of the certificate of need. The total number of
190 beds that may be authorized under the authority of this paragraph
191 (c) shall not exceed sixty (60) beds.

192 (d) The State Department of Health may issue a
193 certificate of need to any hospital located in DeSoto County for
194 the new construction of a skilled nursing facility, not to exceed
195 one hundred twenty (120) beds, in DeSoto County. From and after

196 July 1, 1999, there shall be no prohibition or restrictions on
197 participation in the Medicaid program (Section 43-13-101 et seq.)
198 for the beds in the nursing facility that were authorized under
199 this paragraph (d).

200 (e) The State Department of Health may issue a
201 certificate of need for the construction of a nursing facility or
202 the conversion of beds to nursing facility beds at a personal care
203 facility for the elderly in Lowndes County that is owned and
204 operated by a Mississippi nonprofit corporation, not to exceed
205 sixty (60) beds. From and after July 1, 1999, there shall be no
206 prohibition or restrictions on participation in the Medicaid
207 program (Section 43-13-101 et seq.) for the beds in the nursing
208 facility that were authorized under this paragraph (e).

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

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

225 (h) The State Department of Health may issue a
226 certificate of need for the construction or expansion of nursing
227 facility beds or the conversion of other beds to nursing facility
228 beds in either Hancock, Harrison or Jackson County, not to exceed

229 sixty (60) beds. From and after July 1, 1999, there shall be no
230 prohibition or restrictions on participation in the Medicaid
231 program (Section 43-13-101 et seq.) for the beds in the facility
232 that were authorized under this paragraph (h).

233 (i) The department may issue a certificate of need for
234 the new construction of a skilled nursing facility in Leake
235 County, provided that the recipient of the certificate of need
236 agrees in writing that the skilled nursing facility will not at
237 any time participate in the Medicaid program (Section 43-13-101 et
238 seq.) or admit or keep any patients in the skilled nursing
239 facility who are participating in the Medicaid program. This
240 written agreement by the recipient of the certificate of need
241 shall be fully binding on any subsequent owner of the skilled
242 nursing facility, if the ownership of the facility is transferred
243 at any time after the issuance of the certificate of need.
244 Agreement that the skilled nursing facility will not participate
245 in the Medicaid program shall be a condition of the issuance of a
246 certificate of need to any person under this paragraph (i), and if
247 such skilled nursing facility at any time after the issuance of
248 the certificate of need, regardless of the ownership of the
249 facility, participates in the Medicaid program or admits or keeps
250 any patients in the facility who are participating in the Medicaid
251 program, the State Department of Health shall revoke the
252 certificate of need, if it is still outstanding, and shall deny or
253 revoke the license of the skilled nursing facility, at the time
254 that the department determines, after a hearing complying with due
255 process, that the facility has failed to comply with any of the
256 conditions upon which the certificate of need was issued, as
257 provided in this paragraph and in the written agreement by the
258 recipient of the certificate of need. The provision of Section
259 43-7-193(1) regarding substantial compliance of the projection of
260 need as reported in the current State Health Plan is waived for
261 the purposes of this paragraph. The total number of nursing

262 facility beds that may be authorized by any certificate of need
263 issued under this paragraph (i) shall not exceed sixty (60) beds.
264 If the skilled nursing facility authorized by the certificate of
265 need issued under this paragraph is not constructed and fully
266 operational within eighteen (18) months after July 1, 1994, the
267 State Department of Health, after a hearing complying with due
268 process, shall revoke the certificate of need, if it is still
269 outstanding, and shall not issue a license for the skilled nursing
270 facility at any time after the expiration of the eighteen-month
271 period.

272 (j) The department may issue certificates of need to
273 allow any existing freestanding long-term care facility in
274 Tishomingo County and Hancock County that on July 1, 1995, is
275 licensed with fewer than sixty (60) beds. For the purposes of
276 this paragraph (j), the provision of Section 41-7-193(1) requiring
277 substantial compliance with the projection of need as reported in
278 the current State Health Plan is waived. From and after July 1,
279 1999, there shall be no prohibition or restrictions on
280 participation in the Medicaid program (Section 43-13-101 et seq.)
281 for the beds in the long-term care facilities that were authorized
282 under this paragraph (j).

283 (k) The department may issue a certificate of need for
284 the construction of a nursing facility at a continuing care
285 retirement community in Lowndes County. The total number of beds
286 that may be authorized under the authority of this paragraph (k)
287 shall not exceed sixty (60) beds. From and after July 1, 2001,
288 the prohibition on the facility participating in the Medicaid
289 program (Section 43-13-101 et seq.) that was a condition of
290 issuance of the certificate of need under this paragraph (k) shall
291 be revised as follows: The nursing facility may participate in
292 the Medicaid program from and after July 1, 2001, if the owner of
293 the facility on July 1, 2001, agrees in writing that no more than
294 thirty (30) of the beds at the facility will be certified for

295 participation in the Medicaid program, and that no claim will be
296 submitted for Medicaid reimbursement for more than thirty (30)
297 patients in the facility in any month or for any patient in the
298 facility who is in a bed that is not Medicaid-certified. This
299 written agreement by the owner of the facility shall be a
300 condition of licensure of the facility, and the agreement shall be
301 fully binding on any subsequent owner of the facility if the
302 ownership of the facility is transferred at any time after July 1,
303 2001. After this written agreement is executed, the Division of
304 Medicaid and the State Department of Health shall not certify more
305 than thirty (30) of the beds in the facility for participation in
306 the Medicaid program. If the facility violates the terms of the
307 written agreement by admitting or keeping in the facility on a
308 regular or continuing basis more than thirty (30) patients who are
309 participating in the Medicaid program, the State Department of
310 Health shall revoke the license of the facility, at the time that
311 the department determines, after a hearing complying with due
312 process, that the facility has violated the written agreement.

313 (1) Provided that funds are specifically appropriated
314 therefor by the Legislature, the department may issue a
315 certificate of need to a rehabilitation hospital in Hinds County
316 for the construction of a sixty-bed long-term care nursing
317 facility dedicated to the care and treatment of persons with
318 severe disabilities including persons with spinal cord and
319 closed-head injuries and ventilator-dependent patients. The
320 provision of Section 41-7-193(1) regarding substantial compliance
321 with projection of need as reported in the current State Health
322 Plan is hereby waived for the purpose of this paragraph.

323 (m) The State Department of Health may issue a
324 certificate of need to a county-owned hospital in the Second
325 Judicial District of Panola County for the conversion of not more
326 than seventy-two (72) hospital beds to nursing facility beds,
327 provided that the recipient of the certificate of need agrees in

328 writing that none of the beds at the nursing facility will be
329 certified for participation in the Medicaid program (Section
330 43-13-101 et seq.), and that no claim will be submitted for
331 Medicaid reimbursement in the nursing facility in any day or for
332 any patient in the nursing facility. This written agreement by
333 the recipient of the certificate of need shall be a condition of
334 the issuance of the certificate of need under this paragraph, and
335 the agreement shall be fully binding on any subsequent owner of
336 the nursing facility if the ownership of the nursing facility is
337 transferred at any time after the issuance of the certificate of
338 need. After this written agreement is executed, the Division of
339 Medicaid and the State Department of Health shall not certify any
340 of the beds in the nursing facility for participation in the
341 Medicaid program. If the nursing facility violates the terms of
342 the written agreement by admitting or keeping in the nursing
343 facility on a regular or continuing basis any patients who are
344 participating in the Medicaid program, the State Department of
345 Health shall revoke the license of the nursing facility, at the
346 time that the department determines, after a hearing complying
347 with due process, that the nursing facility has violated the
348 condition upon which the certificate of need was issued, as
349 provided in this paragraph and in the written agreement. If the
350 certificate of need authorized under this paragraph is not issued
351 within twelve (12) months after July 1, 2001, the department shall
352 deny the application for the certificate of need and shall not
353 issue the certificate of need at any time after the twelve-month
354 period, unless the issuance is contested. If the certificate of
355 need is issued and substantial construction of the nursing
356 facility beds has not commenced within eighteen (18) months after
357 July 1, 2001, the State Department of Health, after a hearing
358 complying with due process, shall revoke the certificate of need
359 if it is still outstanding, and the department shall not issue a
360 license for the nursing facility at any time after the

361 eighteen-month period. Provided, however, that if the issuance of
362 the certificate of need is contested, the department shall require
363 substantial construction of the nursing facility beds within six
364 (6) months after final adjudication on the issuance of the
365 certificate of need.

366 (n) The department may issue a certificate of need for
367 the new construction, addition or conversion of skilled nursing
368 facility beds in Madison County, provided that the recipient of
369 the certificate of need agrees in writing that the skilled nursing
370 facility will not at any time participate in the Medicaid program
371 (Section 43-13-101 et seq.) or admit or keep any patients in the
372 skilled nursing facility who are participating in the Medicaid
373 program. This written agreement by the recipient of the
374 certificate of need shall be fully binding on any subsequent owner
375 of the skilled nursing facility, if the ownership of the facility
376 is transferred at any time after the issuance of the certificate
377 of need. Agreement that the skilled nursing facility will not
378 participate in the Medicaid program shall be a condition of the
379 issuance of a certificate of need to any person under this
380 paragraph (n), and if such skilled nursing facility at any time
381 after the issuance of the certificate of need, regardless of the
382 ownership of the facility, participates in the Medicaid program or
383 admits or keeps any patients in the facility who are participating
384 in the Medicaid program, the State Department of Health shall
385 revoke the certificate of need, if it is still outstanding, and
386 shall deny or revoke the license of the skilled nursing facility,
387 at the time that the department determines, after a hearing
388 complying with due process, that the facility has failed to comply
389 with any of the conditions upon which the certificate of need was
390 issued, as provided in this paragraph and in the written agreement
391 by the recipient of the certificate of need. The total number of
392 nursing facility beds that may be authorized by any certificate of
393 need issued under this paragraph (n) shall not exceed sixty (60)

394 beds. If the certificate of need authorized under this paragraph
395 is not issued within twelve (12) months after July 1, 1998, the
396 department shall deny the application for the certificate of need
397 and shall not issue the certificate of need at any time after the
398 twelve-month period, unless the issuance is contested. If the
399 certificate of need is issued and substantial construction of the
400 nursing facility beds has not commenced within eighteen (18)
401 months after the effective date of July 1, 1998, the State
402 Department of Health, after a hearing complying with due process,
403 shall revoke the certificate of need if it is still outstanding,
404 and the department shall not issue a license for the nursing
405 facility at any time after the eighteen-month period. Provided,
406 however, that if the issuance of the certificate of need is
407 contested, the department shall require substantial construction
408 of the nursing facility beds within six (6) months after final
409 adjudication on the issuance of the certificate of need.

410 (o) The department may issue a certificate of need for
411 the new construction, addition or conversion of skilled nursing
412 facility beds in Leake County, provided that the recipient of the
413 certificate of need agrees in writing that the skilled nursing
414 facility will not at any time participate in the Medicaid program
415 (Section 43-13-101 et seq.) or admit or keep any patients in the
416 skilled nursing facility who are participating in the Medicaid
417 program. This written agreement by the recipient of the
418 certificate of need shall be fully binding on any subsequent owner
419 of the skilled nursing facility, if the ownership of the facility
420 is transferred at any time after the issuance of the certificate
421 of need. Agreement that the skilled nursing facility will not
422 participate in the Medicaid program shall be a condition of the
423 issuance of a certificate of need to any person under this
424 paragraph (o), and if such skilled nursing facility at any time
425 after the issuance of the certificate of need, regardless of the
426 ownership of the facility, participates in the Medicaid program or

427 admits or keeps any patients in the facility who are participating
428 in the Medicaid program, the State Department of Health shall
429 revoke the certificate of need, if it is still outstanding, and
430 shall deny or revoke the license of the skilled nursing facility,
431 at the time that the department determines, after a hearing
432 complying with due process, that the facility has failed to comply
433 with any of the conditions upon which the certificate of need was
434 issued, as provided in this paragraph and in the written agreement
435 by the recipient of the certificate of need. The total number of
436 nursing facility beds that may be authorized by any certificate of
437 need issued under this paragraph (o) shall not exceed sixty (60)
438 beds. If the certificate of need authorized under this paragraph
439 is not issued within twelve (12) months after July 1, 2001, the
440 department shall deny the application for the certificate of need
441 and shall not issue the certificate of need at any time after the
442 twelve-month period, unless the issuance is contested. If the
443 certificate of need is issued and substantial construction of the
444 nursing facility beds has not commenced within eighteen (18)
445 months after the effective date of July 1, 2001, the State
446 Department of Health, after a hearing complying with due process,
447 shall revoke the certificate of need if it is still outstanding,
448 and the department shall not issue a license for the nursing
449 facility at any time after the eighteen-month period. Provided,
450 however, that if the issuance of the certificate of need is
451 contested, the department shall require substantial construction
452 of the nursing facility beds within six (6) months after final
453 adjudication on the issuance of the certificate of need.

454 (p) The department may issue a certificate of need for
455 the construction of a municipally-owned nursing facility within
456 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
457 beds, provided that the recipient of the certificate of need
458 agrees in writing that the skilled nursing facility will not at
459 any time participate in the Medicaid program (Section 43-13-101 et

460 seq.) or admit or keep any patients in the skilled nursing
461 facility who are participating in the Medicaid program. This
462 written agreement by the recipient of the certificate of need
463 shall be fully binding on any subsequent owner of the skilled
464 nursing facility, if the ownership of the facility is transferred
465 at any time after the issuance of the certificate of need.
466 Agreement that the skilled nursing facility will not participate
467 in the Medicaid program shall be a condition of the issuance of a
468 certificate of need to any person under this paragraph (p), and if
469 such skilled nursing facility at any time after the issuance of
470 the certificate of need, regardless of the ownership of the
471 facility, participates in the Medicaid program or admits or keeps
472 any patients in the facility who are participating in the Medicaid
473 program, the State Department of Health shall revoke the
474 certificate of need, if it is still outstanding, and shall deny or
475 revoke the license of the skilled nursing facility, at the time
476 that the department determines, after a hearing complying with due
477 process, that the facility has failed to comply with any of the
478 conditions upon which the certificate of need was issued, as
479 provided in this paragraph and in the written agreement by the
480 recipient of the certificate of need. The provision of Section
481 43-7-193(1) regarding substantial compliance of the projection of
482 need as reported in the current State Health Plan is waived for
483 the purposes of this paragraph. If the certificate of need
484 authorized under this paragraph is not issued within twelve (12)
485 months after July 1, 1998, the department shall deny the
486 application for the certificate of need and shall not issue the
487 certificate of need at any time after the twelve-month period,
488 unless the issuance is contested. If the certificate of need is
489 issued and substantial construction of the nursing facility beds
490 has not commenced within eighteen (18) months after July 1, 1998,
491 the State Department of Health, after a hearing complying with due
492 process, shall revoke the certificate of need if it is still

493 outstanding, and the department shall not issue a license for the
494 nursing facility at any time after the eighteen-month period.
495 Provided, however, that if the issuance of the certificate of need
496 is contested, the department shall require substantial
497 construction of the nursing facility beds within six (6) months
498 after final adjudication on the issuance of the certificate of
499 need.

500 (q) (i) Beginning on July 1, 1999, the State
501 Department of Health shall issue certificates of need during each
502 of the next four (4) fiscal years for the construction or
503 expansion of nursing facility beds or the conversion of other beds
504 to nursing facility beds in each county in the state having a need
505 for fifty (50) or more additional nursing facility beds, as shown
506 in the fiscal year 1999 State Health Plan, in the manner provided
507 in this paragraph (q). The total number of nursing facility beds
508 that may be authorized by any certificate of need authorized under
509 this paragraph (q) shall not exceed sixty (60) beds.

510 (ii) Subject to the provisions of subparagraph
511 (v), during each of the next four (4) fiscal years, the department
512 shall issue six (6) certificates of need for new nursing facility
513 beds, as follows: During fiscal years 2000, 2001 and 2002, one
514 (1) certificate of need shall be issued for new nursing facility
515 beds in the county in each of the four (4) Long-Term Care Planning
516 Districts designated in the fiscal year 1999 State Health Plan
517 that has the highest need in the district for those beds; and two
518 (2) certificates of need shall be issued for new nursing facility
519 beds in the two (2) counties from the state at large that have the
520 highest need in the state for those beds, when considering the
521 need on a statewide basis and without regard to the Long-Term Care
522 Planning Districts in which the counties are located. During
523 fiscal year 2003, one (1) certificate of need shall be issued for
524 new nursing facility beds in any county having a need for fifty
525 (50) or more additional nursing facility beds, as shown in the

526 fiscal year 1999 State Health Plan, that has not received a
527 certificate of need under this paragraph (q) during the three (3)
528 previous fiscal years. During fiscal year 2000, in addition to
529 the six (6) certificates of need authorized in this subparagraph,
530 the department also shall issue a certificate of need for new
531 nursing facility beds in Amite County and a certificate of need
532 for new nursing facility beds in Carroll County.

533 (iii) Subject to the provisions of subparagraph
534 (v), the certificate of need issued under subparagraph (ii) for
535 nursing facility beds in each Long-Term Care Planning District
536 during each fiscal year shall first be available for nursing
537 facility beds in the county in the district having the highest
538 need for those beds, as shown in the fiscal year 1999 State Health
539 Plan. If there are no applications for a certificate of need for
540 nursing facility beds in the county having the highest need for
541 those beds by the date specified by the department, then the
542 certificate of need shall be available for nursing facility beds
543 in other counties in the district in descending order of the need
544 for those beds, from the county with the second highest need to
545 the county with the lowest need, until an application is received
546 for nursing facility beds in an eligible county in the district.

547 (iv) Subject to the provisions of subparagraph
548 (v), the certificate of need issued under subparagraph (ii) for
549 nursing facility beds in the two (2) counties from the state at
550 large during each fiscal year shall first be available for nursing
551 facility beds in the two (2) counties that have the highest need
552 in the state for those beds, as shown in the fiscal year 1999
553 State Health Plan, when considering the need on a statewide basis
554 and without regard to the Long-Term Care Planning Districts in
555 which the counties are located. If there are no applications for
556 a certificate of need for nursing facility beds in either of the
557 two (2) counties having the highest need for those beds on a
558 statewide basis by the date specified by the department, then the

559 certificate of need shall be available for nursing facility beds
560 in other counties from the state at large in descending order of
561 the need for those beds on a statewide basis, from the county with
562 the second highest need to the county with the lowest need, until
563 an application is received for nursing facility beds in an
564 eligible county from the state at large.

565 (v) If a certificate of need is authorized to be
566 issued under this paragraph (q) for nursing facility beds in a
567 county on the basis of the need in the Long-Term Care Planning
568 District during any fiscal year of the four-year period, a
569 certificate of need shall not also be available under this
570 paragraph (q) for additional nursing facility beds in that county
571 on the basis of the need in the state at large, and that county
572 shall be excluded in determining which counties have the highest
573 need for nursing facility beds in the state at large for that
574 fiscal year. After a certificate of need has been issued under
575 this paragraph (q) for nursing facility beds in a county during
576 any fiscal year of the four-year period, a certificate of need
577 shall not be available again under this paragraph (q) for
578 additional nursing facility beds in that county during the
579 four-year period, and that county shall be excluded in determining
580 which counties have the highest need for nursing facility beds in
581 succeeding fiscal years.

582 (vi) If more than one (1) application is made for
583 a certificate of need for nursing home facility beds available
584 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
585 County, and one (1) of the applicants is a county-owned hospital
586 located in the county where the nursing facility beds are
587 available, the department shall give priority to the county-owned
588 hospital in granting the certificate of need if the following
589 conditions are met:

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

593 2. The county-owned hospital's qualifications
594 for the certificate of need, as shown in its application and as
595 determined by the department, are at least equal to the
596 qualifications of the other applicants for the certificate of
597 need.

598 (r) (i) Beginning on July 1, 1999, the State
599 Department of Health shall issue certificates of need during each
600 of the next two (2) fiscal years for the construction or expansion
601 of nursing facility beds or the conversion of other beds to
602 nursing facility beds in each of the four (4) Long-Term Care
603 Planning Districts designated in the fiscal year 1999 State Health
604 Plan, to provide care exclusively to patients with Alzheimer's
605 disease.

606 (ii) Not more than twenty (20) beds may be
607 authorized by any certificate of need issued under this paragraph
608 (r), and not more than a total of sixty (60) beds may be
609 authorized in any Long-Term Care Planning District by all
610 certificates of need issued under this paragraph (r). However,
611 the total number of beds that may be authorized by all
612 certificates of need issued under this paragraph (r) during any
613 fiscal year shall not exceed one hundred twenty (120) beds, and
614 the total number of beds that may be authorized in any Long-Term
615 Care Planning District during any fiscal year shall not exceed
616 forty (40) beds. Of the certificates of need that are issued for
617 each Long-Term Care Planning District during the next two (2)
618 fiscal years, at least one (1) shall be issued for beds in the
619 northern part of the district, at least one (1) shall be issued
620 for beds in the central part of the district, and at least one (1)
621 shall be issued for beds in the southern part of the district.

622 (iii) The State Department of Health, in
623 consultation with the Department of Mental Health and the Division
624 of Medicaid, shall develop and prescribe the staffing levels,
625 space requirements and other standards and requirements that must
626 be met with regard to the nursing facility beds authorized under
627 this paragraph (r) to provide care exclusively to patients with
628 Alzheimer's disease.

629 (3) The State Department of Health may grant approval for
630 and issue certificates of need to any person proposing the new
631 construction of, addition to, conversion of beds of or expansion
632 of any health care facility defined in subparagraph (x)
633 (psychiatric residential treatment facility) of Section
634 41-7-173(h). The total number of beds which may be authorized by
635 such certificates of need shall not exceed three hundred
636 thirty-four (334) beds for the entire state.

637 (a) Of the total number of beds authorized under this
638 subsection, the department shall issue a certificate of need to a
639 privately-owned psychiatric residential treatment facility in
640 Simpson County for the conversion of sixteen (16) intermediate
641 care facility for the mentally retarded (ICF-MR) beds to
642 psychiatric residential treatment facility beds, provided that
643 facility agrees in writing that the facility shall give priority
644 for the use of those sixteen (16) beds to Mississippi residents
645 who are presently being treated in out-of-state facilities.

646 (b) Of the total number of beds authorized under this
647 subsection, the department may issue a certificate or certificates
648 of need for the construction or expansion of psychiatric
649 residential treatment facility beds or the conversion of other
650 beds to psychiatric residential treatment facility beds in Warren
651 County, not to exceed sixty (60) psychiatric residential treatment
652 facility beds, provided that the facility agrees in writing that
653 no more than thirty (30) of the beds at the psychiatric
654 residential treatment facility will be certified for participation

655 in the Medicaid program (Section 43-13-101 et seq.) for the use of
656 any patients other than those who are participating only in the
657 Medicaid program of another state, and that no claim will be
658 submitted to the Division of Medicaid for Medicaid reimbursement
659 for more than thirty (30) patients in the psychiatric residential
660 treatment facility in any day or for any patient in the
661 psychiatric residential treatment facility who is in a bed that is
662 not Medicaid-certified. This written agreement by the recipient
663 of the certificate of need shall be a condition of the issuance of
664 the certificate of need under this paragraph, and the agreement
665 shall be fully binding on any subsequent owner of the psychiatric
666 residential treatment facility if the ownership of the facility is
667 transferred at any time after the issuance of the certificate of
668 need. After this written agreement is executed, the Division of
669 Medicaid and the State Department of Health shall not certify more
670 than thirty (30) of the beds in the psychiatric residential
671 treatment facility for participation in the Medicaid program for
672 the use of any patients other than those who are participating
673 only in the Medicaid program of another state. If the psychiatric
674 residential treatment facility violates the terms of the written
675 agreement by admitting or keeping in the facility on a regular or
676 continuing basis more than thirty (30) patients who are
677 participating in the Mississippi Medicaid program, the State
678 Department of Health shall revoke the license of the facility, at
679 the time that the department determines, after a hearing complying
680 with due process, that the facility has violated the condition
681 upon which the certificate of need was issued, as provided in this
682 paragraph and in the written agreement.

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

687 (c) Of the total number of beds authorized under this
688 subsection, the department shall issue a certificate of need to a
689 hospital currently operating Medicaid-certified acute psychiatric
690 beds for adolescents in DeSoto County, for the establishment of a
691 forty-bed psychiatric residential treatment facility in DeSoto
692 County, provided that the hospital agrees in writing (i) that the
693 hospital shall give priority for the use of those forty (40) beds
694 to Mississippi residents who are presently being treated in
695 out-of-state facilities, and (ii) that no more than fifteen (15)
696 of the beds at the psychiatric residential treatment facility will
697 be certified for participation in the Medicaid program (Section
698 43-13-101 et seq.), and that no claim will be submitted for
699 Medicaid reimbursement for more than fifteen (15) patients in the
700 psychiatric residential treatment facility in any day or for any
701 patient in the psychiatric residential treatment facility who is
702 in a bed that is not Medicaid-certified. This written agreement
703 by the recipient of the certificate of need shall be a condition
704 of the issuance of the certificate of need under this paragraph,
705 and the agreement shall be fully binding on any subsequent owner
706 of the psychiatric residential treatment facility if the ownership
707 of the facility is transferred at any time after the issuance of
708 the certificate of need. After this written agreement is
709 executed, the Division of Medicaid and the State Department of
710 Health shall not certify more than fifteen (15) of the beds in the
711 psychiatric residential treatment facility for participation in
712 the Medicaid program. If the psychiatric residential treatment
713 facility violates the terms of the written agreement by admitting
714 or keeping in the facility on a regular or continuing basis more
715 than fifteen (15) patients who are participating in the Medicaid
716 program, the State Department of Health shall revoke the license
717 of the facility, at the time that the department determines, after
718 a hearing complying with due process, that the facility has
719 violated the condition upon which the certificate of need was

720 issued, as provided in this paragraph and in the written
721 agreement.

722 (d) Of the total number of beds authorized under this
723 subsection, the department may issue a certificate or certificates
724 of need for the construction or expansion of psychiatric
725 residential treatment facility beds or the conversion of other
726 beds to psychiatric treatment facility beds, not to exceed thirty
727 (30) psychiatric residential treatment facility beds, in either
728 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
729 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

730 (e) Of the total number of beds authorized under this
731 subsection (3) the department shall issue a certificate of need to
732 a privately-owned, nonprofit psychiatric residential treatment
733 facility in Hinds County for an eight-bed expansion of the
734 facility, provided that the facility agrees in writing that the
735 facility shall give priority for the use of those eight (8) beds
736 to Mississippi residents who are presently being treated in
737 out-of-state facilities.

738 (f) The department shall issue a certificate of need to
739 a one-hundred-thirty-four-bed specialty hospital located on
740 twenty-nine and forty-four one-hundredths (29.44) commercial acres
741 at 5900 Highway 39 North in Meridian (Lauderdale County),
742 Mississippi, for the addition, construction or expansion of
743 child/adolescent psychiatric residential treatment facility beds
744 in Lauderdale County. As a condition of issuance of the
745 certificate of need under this paragraph, the facility shall give
746 priority in admissions to the child/adolescent psychiatric
747 residential treatment facility beds authorized under this
748 paragraph to patients who otherwise would require out-of-state
749 placement. The Division of Medicaid, in conjunction with the
750 Department of Human Services, shall furnish the facility a list of
751 all out-of-state patients on a quarterly basis. Furthermore,
752 notice shall also be provided to the parent, custodial parent or

753 guardian of each out-of-state patient notifying them of the
754 priority status granted by this paragraph. For purposes of this
755 paragraph, the provisions of Section 41-7-193(1) requiring
756 substantial compliance with the projection of need as reported in
757 the current State Health Plan are waived. The total number of
758 child/adolescent psychiatric residential treatment facility beds
759 that may be authorized under the authority of this paragraph shall
760 be sixty (60) beds. There shall be no prohibition or restrictions
761 on participation in the Medicaid program (Section 43-13-101 et
762 seq.) for the person receiving the certificate of need authorized
763 under this paragraph or for the beds converted pursuant to the
764 authority of that certificate of need.

765 (4) (a) From and after July 1, 1993, the department shall
766 not issue a certificate of need to any person for the new
767 construction of any hospital, psychiatric hospital or chemical
768 dependency hospital that will contain any child/adolescent
769 psychiatric or child/adolescent chemical dependency beds, or for
770 the conversion of any other health care facility to a hospital,
771 psychiatric hospital or chemical dependency hospital that will
772 contain any child/adolescent psychiatric or child/adolescent
773 chemical dependency beds, or for the addition of any
774 child/adolescent psychiatric or child/adolescent chemical
775 dependency beds in any hospital, psychiatric hospital or chemical
776 dependency hospital, or for the conversion of any beds of another
777 category in any hospital, psychiatric hospital or chemical
778 dependency hospital to child/adolescent psychiatric or
779 child/adolescent chemical dependency beds, except as hereinafter
780 authorized:

781 (i) The department may issue certificates of need
782 to any person for any purpose described in this subsection,
783 provided that the hospital, psychiatric hospital or chemical
784 dependency hospital does not participate in the Medicaid program
785 (Section 43-13-101 et seq.) at the time of the application for the

786 certificate of need and the owner of the hospital, psychiatric
787 hospital or chemical dependency hospital agrees in writing that
788 the hospital, psychiatric hospital or chemical dependency hospital
789 will not at any time participate in the Medicaid program or admit
790 or keep any patients who are participating in the Medicaid program
791 in the hospital, psychiatric hospital or chemical dependency
792 hospital. This written agreement by the recipient of the
793 certificate of need shall be fully binding on any subsequent owner
794 of the hospital, psychiatric hospital or chemical dependency
795 hospital, if the ownership of the facility is transferred at any
796 time after the issuance of the certificate of need. Agreement
797 that the hospital, psychiatric hospital or chemical dependency
798 hospital will not participate in the Medicaid program shall be a
799 condition of the issuance of a certificate of need to any person
800 under this subparagraph (a)(i), and if such hospital, psychiatric
801 hospital or chemical dependency hospital at any time after the
802 issuance of the certificate of need, regardless of the ownership
803 of the facility, participates in the Medicaid program or admits or
804 keeps any patients in the hospital, psychiatric hospital or
805 chemical dependency hospital who are participating in the Medicaid
806 program, the State Department of Health shall revoke the
807 certificate of need, if it is still outstanding, and shall deny or
808 revoke the license of the hospital, psychiatric hospital or
809 chemical dependency hospital, at the time that the department
810 determines, after a hearing complying with due process, that the
811 hospital, psychiatric hospital or chemical dependency hospital has
812 failed to comply with any of the conditions upon which the
813 certificate of need was issued, as provided in this subparagraph
814 and in the written agreement by the recipient of the certificate
815 of need.

816 (ii) The department may issue a certificate of
817 need for the conversion of existing beds in a county hospital in
818 Choctaw County from acute care beds to child/adolescent chemical

819 dependency beds. For purposes of this subparagraph, the
820 provisions of Section 41-7-193(1) requiring substantial compliance
821 with the projection of need as reported in the current State
822 Health Plan is waived. The total number of beds that may be
823 authorized under authority of this subparagraph shall not exceed
824 twenty (20) beds. There shall be no prohibition or restrictions
825 on participation in the Medicaid program (Section 43-13-101 et
826 seq.) for the hospital receiving the certificate of need
827 authorized under this subparagraph (a)(ii) or for the beds
828 converted pursuant to the authority of that certificate of need.

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

843 If by January 1, 2002, there has been no significant
844 commencement of construction of the beds authorized under this
845 subparagraph (a)(iii), or no significant action taken to convert
846 existing beds to the beds authorized under this subparagraph, then
847 the certificate of need that was previously issued under this
848 subparagraph shall expire. If the previously issued certificate
849 of need expires, the department may accept applications for
850 issuance of another certificate of need for the beds authorized
851 under this subparagraph, and may issue a certificate of need to

852 authorize the construction, expansion or conversion of the beds
853 authorized under this subparagraph.

854 (iv) The department shall issue a certificate of
855 need to the Region 7 Mental Health/Retardation Commission for the
856 construction or expansion of child/adolescent psychiatric beds or
857 the conversion of other beds to child/adolescent psychiatric beds
858 in any of the counties served by the commission. For purposes of
859 this subparagraph, the provisions of Section 41-7-193(1) requiring
860 substantial compliance with the projection of need as reported in
861 the current State Health Plan is waived. The total number of beds
862 that may be authorized under the authority of this subparagraph
863 shall not exceed twenty (20) beds. There shall be no prohibition
864 or restrictions on participation in the Medicaid program (Section
865 43-13-101 et seq.) for the person receiving the certificate of
866 need authorized under this subparagraph (a)(iv) or for the beds
867 converted pursuant to the authority of that certificate of need.

868 (v) The department may issue a certificate of need
869 to any county hospital located in Leflore County for the
870 construction or expansion of adult psychiatric beds or the
871 conversion of other beds to adult psychiatric beds, not to exceed
872 twenty (20) beds, provided that the recipient of the certificate
873 of need agrees in writing that the adult psychiatric beds will not
874 at any time be certified for participation in the Medicaid program
875 and that the hospital will not admit or keep any patients who are
876 participating in the Medicaid program in any of such adult
877 psychiatric beds. This written agreement by the recipient of the
878 certificate of need shall be fully binding on any subsequent owner
879 of the hospital if the ownership of the hospital is transferred at
880 any time after the issuance of the certificate of need. Agreement
881 that the adult psychiatric beds will not be certified for
882 participation in the Medicaid program shall be a condition of the
883 issuance of a certificate of need to any person under this
884 subparagraph (a)(v), and if such hospital at any time after the

885 issuance of the certificate of need, regardless of the ownership
886 of the hospital, has any of such adult psychiatric beds certified
887 for participation in the Medicaid program or admits or keeps any
888 Medicaid patients in such adult psychiatric beds, the State
889 Department of Health shall revoke the certificate of need, if it
890 is still outstanding, and shall deny or revoke the license of the
891 hospital at the time that the department determines, after a
892 hearing complying with due process, that the hospital has failed
893 to comply with any of the conditions upon which the certificate of
894 need was issued, as provided in this subparagraph and in the
895 written agreement by the recipient of the certificate of need.

896 (vi) The department may issue a certificate or
897 certificates of need for the expansion of child psychiatric beds
898 or the conversion of other beds to child psychiatric beds at the
899 University of Mississippi Medical Center. For purposes of this
900 subparagraph (a)(vi), the provision of Section 41-7-193(1)
901 requiring substantial compliance with the projection of need as
902 reported in the current State Health Plan is waived. The total
903 number of beds that may be authorized under the authority of this
904 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
905 shall be no prohibition or restrictions on participation in the
906 Medicaid program (Section 43-13-101 et seq.) for the hospital
907 receiving the certificate of need authorized under this
908 subparagraph (a)(vi) or for the beds converted pursuant to the
909 authority of that certificate of need.

910 (b) From and after July 1, 1990, no hospital,
911 psychiatric hospital or chemical dependency hospital shall be
912 authorized to add any child/adolescent psychiatric or
913 child/adolescent chemical dependency beds or convert any beds of
914 another category to child/adolescent psychiatric or
915 child/adolescent chemical dependency beds without a certificate of
916 need under the authority of subsection (1)(c) of this section.

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

920 (6) The State Department of Health shall issue a certificate
921 of need to a Mississippi corporation qualified to manage a
922 long-term care hospital as defined in Section 41-7-173(h)(xii) in
923 Harrison County, not to exceed eighty (80) beds, including any
924 necessary renovation or construction required for licensure and
925 certification, provided that the recipient of the certificate of
926 need agrees in writing that the long-term care hospital will not
927 at any time participate in the Medicaid program (Section 43-13-101
928 et seq.) or admit or keep any patients in the long-term care
929 hospital who are participating in the Medicaid program. This
930 written agreement by the recipient of the certificate of need
931 shall be fully binding on any subsequent owner of the long-term
932 care hospital, if the ownership of the facility is transferred at
933 any time after the issuance of the certificate of need. Agreement
934 that the long-term care hospital will not participate in the
935 Medicaid program shall be a condition of the issuance of a
936 certificate of need to any person under this subsection (6), and
937 if such long-term care hospital at any time after the issuance of
938 the certificate of need, regardless of the ownership of the
939 facility, participates in the Medicaid program or admits or keeps
940 any patients in the facility who are participating in the Medicaid
941 program, the State Department of Health shall revoke the
942 certificate of need, if it is still outstanding, and shall deny or
943 revoke the license of the long-term care hospital, at the time
944 that the department determines, after a hearing complying with due
945 process, that the facility has failed to comply with any of the
946 conditions upon which the certificate of need was issued, as
947 provided in this subsection and in the written agreement by the
948 recipient of the certificate of need. For purposes of this
949 subsection, the provision of Section 41-7-193(1) requiring

950 substantial compliance with the projection of need as reported in
951 the current State Health Plan is hereby waived.

952 (7) The State Department of Health may issue a certificate
953 of need to any hospital in the state to utilize a portion of its
954 beds for the "swing-bed" concept. Any such hospital must be in
955 conformance with the federal regulations regarding such swing-bed
956 concept at the time it submits its application for a certificate
957 of need to the State Department of Health, except that such
958 hospital may have more licensed beds or a higher average daily
959 census (ADC) than the maximum number specified in federal
960 regulations for participation in the swing-bed program. Any
961 hospital meeting all federal requirements for participation in the
962 swing-bed program which receives such certificate of need shall
963 render services provided under the swing-bed concept to any
964 patient eligible for Medicare (Title XVIII of the Social Security
965 Act) who is certified by a physician to be in need of such
966 services, and no such hospital shall permit any patient who is
967 eligible for both Medicaid and Medicare or eligible only for
968 Medicaid to stay in the swing beds of the hospital for more than
969 thirty (30) days per admission unless the hospital receives prior
970 approval for such patient from the Division of Medicaid, Office of
971 the Governor. Any hospital having more licensed beds or a higher
972 average daily census (ADC) than the maximum number specified in
973 federal regulations for participation in the swing-bed program
974 which receives such certificate of need shall develop a procedure
975 to insure that before a patient is allowed to stay in the swing
976 beds of the hospital, there are no vacant nursing home beds
977 available for that patient located within a fifty-mile radius of
978 the hospital. When any such hospital has a patient staying in the
979 swing beds of the hospital and the hospital receives notice from a
980 nursing home located within such radius that there is a vacant bed
981 available for that patient, the hospital shall transfer the
982 patient to the nursing home within a reasonable time after receipt

983 of the notice. Any hospital which is subject to the requirements
984 of the two (2) preceding sentences of this subsection may be
985 suspended from participation in the swing-bed program for a
986 reasonable period of time by the State Department of Health if the
987 department, after a hearing complying with due process, determines
988 that the hospital has failed to comply with any of those
989 requirements.

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

994 (9) The Department of Health shall not grant approval for or
995 issue a certificate of need to any person proposing the
996 establishment of, or expansion of the currently approved territory
997 of, or the contracting to establish a home office, subunit or
998 branch office within the space operated as a health care facility
999 as defined in Section 41-7-173(h)(i) through (viii) by a health
1000 care facility as defined in subparagraph (ix) of Section
1001 41-7-173(h).

1002 (10) Health care facilities owned and/or operated by the
1003 state or its agencies are exempt from the restraints in this
1004 section against issuance of a certificate of need if such addition
1005 or expansion consists of repairing or renovation necessary to
1006 comply with the state licensure law. This exception shall not
1007 apply to the new construction of any building by such state
1008 facility. This exception shall not apply to any health care
1009 facilities owned and/or operated by counties, municipalities,
1010 districts, unincorporated areas, other defined persons, or any
1011 combination thereof.

1012 (11) The new construction, renovation or expansion of or
1013 addition to any health care facility defined in subparagraph (ii)
1014 (psychiatric hospital), subparagraph (iv) (skilled nursing
1015 facility), subparagraph (vi) (intermediate care facility),

1016 subparagraph (viii) (intermediate care facility for the mentally
1017 retarded) and subparagraph (x) (psychiatric residential treatment
1018 facility) of Section 41-7-173(h) which is owned by the State of
1019 Mississippi and under the direction and control of the State
1020 Department of Mental Health, and the addition of new beds or the
1021 conversion of beds from one category to another in any such
1022 defined health care facility which is owned by the State of
1023 Mississippi and under the direction and control of the State
1024 Department of Mental Health, shall not require the issuance of a
1025 certificate of need under Section 41-7-171 et seq.,
1026 notwithstanding any provision in Section 41-7-171 et seq. to the
1027 contrary.

1028 (12) The new construction, renovation or expansion of or
1029 addition to any veterans homes or domiciliaries for eligible
1030 veterans of the State of Mississippi as authorized under Section
1031 35-1-19 shall not require the issuance of a certificate of need,
1032 notwithstanding any provision in Section 41-7-171 et seq. to the
1033 contrary.

1034 (13) The new construction of a nursing facility or nursing
1035 facility beds or the conversion of other beds to nursing facility
1036 beds shall not require the issuance of a certificate of need,
1037 notwithstanding any provision in Section 41-7-171 et seq. to the
1038 contrary, if the conditions of this subsection are met.

1039 (a) Before any construction or conversion may be
1040 undertaken without a certificate of need, the owner of the nursing
1041 facility, in the case of an existing facility, or the applicant to
1042 construct a nursing facility, in the case of new construction,
1043 first must file a written notice of intent and sign a written
1044 agreement with the State Department of Health that the entire
1045 nursing facility will not at any time participate in or have any
1046 beds certified for participation in the Medicaid program (Section
1047 43-13-101 et seq.), will not admit or keep any patients in the
1048 nursing facility who are participating in the Medicaid program,

1049 and will not submit any claim for Medicaid reimbursement for any
1050 patient in the facility. This written agreement by the owner or
1051 applicant shall be a condition of exercising the authority under
1052 this subsection without a certificate of need, and the agreement
1053 shall be fully binding on any subsequent owner of the nursing
1054 facility if the ownership of the facility is transferred at any
1055 time after the agreement is signed. After the written agreement
1056 is signed, the Division of Medicaid and the State Department of
1057 Health shall not certify any beds in the nursing facility for
1058 participation in the Medicaid program. If the nursing facility
1059 violates the terms of the written agreement by participating in
1060 the Medicaid program, having any beds certified for participation
1061 in the Medicaid program, admitting or keeping any patient in the
1062 facility who is participating in the Medicaid program, or
1063 submitting any claim for Medicaid reimbursement for any patient in
1064 the facility, the State Department of Health shall revoke the
1065 license of the nursing facility at the time that the department
1066 determines, after a hearing complying with due process, that the
1067 facility has violated the terms of the written agreement.

1068 (b) For the purposes of this subsection, participation
1069 in the Medicaid program by a nursing facility includes Medicaid
1070 reimbursement of coinsurance and deductibles for recipients who
1071 are qualified Medicare beneficiaries and/or those who are dually
1072 eligible. Any nursing facility exercising the authority under
1073 this subsection may not bill or submit a claim to the Division of
1074 Medicaid for services to qualified Medicare beneficiaries and/or
1075 those who are dually eligible.

1076 (c) The new construction of a nursing facility or
1077 nursing facility beds or the conversion of other beds to nursing
1078 facility beds described in this section must be either a part of a
1079 completely new continuing care retirement community, as described
1080 in the latest edition of the Mississippi State Health Plan, or an
1081 addition to existing personal care and independent living

1082 components, and so that the completed project will be a continuing
1083 care retirement community, containing (i) independent living
1084 accommodations, (ii) personal care beds, and (iii) the nursing
1085 home facility beds. The three (3) components must be located on a
1086 single site and be operated as one (1) inseparable facility. The
1087 nursing facility component must contain a minimum of thirty (30)
1088 beds. Any nursing facility beds authorized by this section will
1089 not be counted against the bed need set forth in the State Health
1090 Plan, as identified in Section 41-7-171 et seq.

1091 This subsection (13) shall stand repealed from and after July
1092 1, 2005.

1093 (14) The State Department of Health shall issue a
1094 certificate of need to any hospital which is currently licensed
1095 for two hundred fifty (250) or more acute care beds and is located
1096 in any general hospital service area not having a comprehensive
1097 cancer center, for the establishment and equipping of such a
1098 center which provides facilities and services for outpatient
1099 radiation oncology therapy, outpatient medical oncology therapy,
1100 and appropriate support services including the provision of
1101 radiation therapy services. The provision of Section 41-7-193(1)
1102 regarding substantial compliance with the projection of need as
1103 reported in the current State Health Plan is waived for the
1104 purpose of this subsection.

1105 (15) The State Department of Health may authorize the
1106 transfer of hospital beds, not to exceed sixty (60) beds, from the
1107 North Panola Community Hospital to the South Panola Community
1108 Hospital. The authorization for the transfer of those beds shall
1109 be exempt from the certificate of need review process.

1110 (16) Nothing in this section or in any other provision of
1111 Section 41-7-171 et seq. shall prevent any nursing facility from
1112 designating an appropriate number of existing beds in the facility
1113 as beds for providing care exclusively to patients with
1114 Alzheimer's disease.

1115 **SECTION 2.** This act shall take effect and be in force from
1116 and after its passage.