

By: Senator(s) Jackson (15th)

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2859
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES OF
3 NEED FOR MISSISSIPPI STATE UNIVERSITY AND A PUBLIC OR PRIVATE
4 HEALTH CARE PROVIDER SELECTED THROUGH AN RFP PROCESS TO ACQUIRE
5 AND JOINTLY OPERATE A LINEAR ACCELERATOR AND A MAGNETIC RESONANCE
6 IMAGING UNIT IN THE CITY OF STARKVILLE, MISSISSIPPI; AND FOR
7 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

96 capacity as prescribed in paragraph (c) or (d) of this subsection
97 as a result of the change of ownership; an acquisition for less
98 than fair market value must be reviewed, if the acquisition at
99 fair market value would be subject to review;

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

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

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

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

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

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

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

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

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

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

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

191 (f) The State Department of Health may issue a
192 certificate of need for conversion of a county hospital facility
193 in Itawamba County to a nursing facility, not to exceed sixty (60)

194 beds, including any necessary construction, renovation or
195 expansion. From and after July 1, 1999, there shall be no
196 prohibition or restrictions on participation in the Medicaid
197 program (Section 43-13-101 et seq.) for the beds in the nursing
198 facility that were authorized under this paragraph (f).

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

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

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

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

254 (j) The department may issue certificates of need to
255 allow any existing freestanding long-term care facility in
256 Tishomingo County and Hancock County that on July 1, 1995, is
257 licensed with fewer than sixty (60) beds. For the purposes of
258 this paragraph (j), the provision of Section 41-7-193(1) requiring
259 substantial compliance with the projection of need as reported in

260 the current State Health Plan is waived. From and after July 1,
261 1999, there shall be no prohibition or restrictions on
262 participation in the Medicaid program (Section 43-13-101 et seq.)
263 for the beds in the long-term care facilities that were authorized
264 under this paragraph (j).

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

293 the department determines, after a hearing complying with due
294 process, that the facility has violated the written agreement.

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

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

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

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

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

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

425 certificate of need is issued and substantial construction of the
426 nursing facility beds has not commenced within eighteen (18)
427 months after the effective date of July 1, 2001, the State
428 Department of Health, after a hearing complying with due process,
429 shall revoke the certificate of need if it is still outstanding,
430 and the department shall not issue a license for the nursing
431 facility at any time after the eighteen-month period. Provided,
432 however, that if the issuance of the certificate of need is
433 contested, the department shall require substantial construction
434 of the nursing facility beds within six (6) months after final
435 adjudication on the issuance of the certificate of need.

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

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

482 (q) (i) Beginning on July 1, 1999, the State
483 Department of Health shall issue certificates of need during each
484 of the next four (4) fiscal years for the construction or
485 expansion of nursing facility beds or the conversion of other beds
486 to nursing facility beds in each county in the state having a need
487 for fifty (50) or more additional nursing facility beds, as shown
488 in the fiscal year 1999 State Health Plan, in the manner provided
489 in this paragraph (q). The total number of nursing facility beds

490 that may be authorized by any certificate of need authorized under
491 this paragraph (q) shall not exceed sixty (60) beds.

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

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

523 those beds by the date specified by the department, then the
524 certificate of need shall be available for nursing facility beds
525 in other counties in the district in descending order of the need
526 for those beds, from the county with the second highest need to
527 the county with the lowest need, until an application is received
528 for nursing facility beds in an eligible county in the district.

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

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

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

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

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

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

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

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

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

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

619 (a) Of the total number of beds authorized under this
620 subsection, the department shall issue a certificate of need to a

621 privately-owned psychiatric residential treatment facility in
622 Simpson County for the conversion of sixteen (16) intermediate
623 care facility for the mentally retarded (ICF-MR) beds to
624 psychiatric residential treatment facility beds, provided that
625 facility agrees in writing that the facility shall give priority
626 for the use of those sixteen (16) beds to Mississippi residents
627 who are presently being treated in out-of-state facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

811 (iii) The department may issue a certificate or
812 certificates of need for the construction or expansion of
813 child/adolescent psychiatric beds or the conversion of other beds
814 to child/adolescent psychiatric beds in Warren County. For
815 purposes of this subparagraph, the provisions of Section
816 41-7-193(1) requiring substantial compliance with the projection
817 of need as reported in the current State Health Plan are waived.
818 The total number of beds that may be authorized under the

819 authority of this subparagraph shall not exceed twenty (20) beds.
820 There shall be no prohibition or restrictions on participation in
821 the Medicaid program (Section 43-13-101 et seq.) for the person
822 receiving the certificate of need authorized under this
823 subparagraph (a)(iii) or for the beds converted pursuant to the
824 authority of that certificate of need.

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

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

850 (v) The department may issue a certificate of need
851 to any county hospital located in Leflore County for the

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

878 (vi) The department may issue a certificate or
879 certificates of need for the expansion of child psychiatric beds
880 or the conversion of other beds to child psychiatric beds at the
881 University of Mississippi Medical Center. For purposes of this
882 subparagraph (a)(vi), the provision of Section 41-7-193(1)
883 requiring substantial compliance with the projection of need as
884 reported in the current State Health Plan is waived. The total

885 number of beds that may be authorized under the authority of this
886 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
887 shall be no prohibition or restrictions on participation in the
888 Medicaid program (Section 43-13-101 et seq.) for the hospital
889 receiving the certificate of need authorized under this
890 subparagraph (a)(vi) or for the beds converted pursuant to the
891 authority of that certificate of need.

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

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

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

918 certificate of need to any person under this subsection (6), and
919 if such long-term care hospital at any time after the issuance of
920 the certificate of need, regardless of the ownership of the
921 facility, participates in the Medicaid program or admits or keeps
922 any patients in the facility who are participating in the Medicaid
923 program, the State Department of Health shall revoke the
924 certificate of need, if it is still outstanding, and shall deny or
925 revoke the license of the long-term care hospital, at the time
926 that the department determines, after a hearing complying with due
927 process, that the facility has failed to comply with any of the
928 conditions upon which the certificate of need was issued, as
929 provided in this subsection and in the written agreement by the
930 recipient of the certificate of need. For purposes of this
931 subsection, the provision of Section 41-7-193(1) requiring
932 substantial compliance with the projection of need as reported in
933 the current State Health Plan is hereby waived.

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

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

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

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

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

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

1010 (12) The new construction, renovation or expansion of or
1011 addition to any veterans homes or domiciliaries for eligible
1012 veterans of the State of Mississippi as authorized under Section
1013 35-1-19 shall not require the issuance of a certificate of need,
1014 notwithstanding any provision in Section 41-7-171 et seq. to the
1015 contrary.

1016 (13) The new construction of a nursing facility or nursing
1017 facility beds or the conversion of other beds to nursing facility
1018 beds shall not require the issuance of a certificate of need,
1019 notwithstanding any provision in Section 41-7-171 et seq. to the
1020 contrary, if the conditions of this subsection are met.

1021 (a) Before any construction or conversion may be
1022 undertaken without a certificate of need, the owner of the nursing
1023 facility, in the case of an existing facility, or the applicant to
1024 construct a nursing facility, in the case of new construction,
1025 first must file a written notice of intent and sign a written
1026 agreement with the State Department of Health that the entire
1027 nursing facility will not at any time participate in or have any
1028 beds certified for participation in the Medicaid program (Section
1029 43-13-101 et seq.), will not admit or keep any patients in the
1030 nursing facility who are participating in the Medicaid program,
1031 and will not submit any claim for Medicaid reimbursement for any
1032 patient in the facility. This written agreement by the owner or
1033 applicant shall be a condition of exercising the authority under
1034 this subsection without a certificate of need, and the agreement
1035 shall be fully binding on any subsequent owner of the nursing
1036 facility if the ownership of the facility is transferred at any
1037 time after the agreement is signed. After the written agreement
1038 is signed, the Division of Medicaid and the State Department of
1039 Health shall not certify any beds in the nursing facility for
1040 participation in the Medicaid program. If the nursing facility
1041 violates the terms of the written agreement by participating in
1042 the Medicaid program, having any beds certified for participation
1043 in the Medicaid program, admitting or keeping any patient in the
1044 facility who is participating in the Medicaid program, or
1045 submitting any claim for Medicaid reimbursement for any patient in
1046 the facility, the State Department of Health shall revoke the
1047 license of the nursing facility at the time that the department

1048 determines, after a hearing complying with due process, that the
1049 facility has violated the terms of the written agreement.

1050 (b) For the purposes of this subsection, participation
1051 in the Medicaid program by a nursing facility includes Medicaid
1052 reimbursement of coinsurance and deductibles for recipients who
1053 are qualified Medicare beneficiaries and/or those who are dually
1054 eligible. Any nursing facility exercising the authority under
1055 this subsection may not bill or submit a claim to the Division of
1056 Medicaid for services to qualified Medicare beneficiaries and/or
1057 those who are dually eligible.

1058 (c) The new construction of a nursing facility or
1059 nursing facility beds or the conversion of other beds to nursing
1060 facility beds described in this section must be either a part of a
1061 completely new continuing care retirement community, as described
1062 in the latest edition of the Mississippi State Health Plan, or an
1063 addition to existing personal care and independent living
1064 components, and so that the completed project will be a continuing
1065 care retirement community, containing (i) independent living
1066 accommodations, (ii) personal care beds, and (iii) the nursing
1067 home facility beds. The three (3) components must be located on a
1068 single site and be operated as one (1) inseparable facility. The
1069 nursing facility component must contain a minimum of thirty (30)
1070 beds. Any nursing facility beds authorized by this section will
1071 not be counted against the bed need set forth in the State Health
1072 Plan, as identified in Section 41-7-171 et seq.

1073 This subsection (13) shall stand repealed from and after July
1074 1, 2005.

1075 (14) The State Department of Health shall issue a
1076 certificate of need to any hospital which is currently licensed
1077 for two hundred fifty (250) or more acute care beds and is located
1078 in any general hospital service area not having a comprehensive
1079 cancer center, for the establishment and equipping of such a
1080 center which provides facilities and services for outpatient

1081 radiation oncology therapy, outpatient medical oncology therapy,
1082 and appropriate support services including the provision of
1083 radiation therapy services. The provision of Section 41-7-193(1)
1084 regarding substantial compliance with the projection of need as
1085 reported in the current State Health Plan is waived for the
1086 purpose of this subsection.

1087 (15) The State Department of Health may authorize the
1088 transfer of hospital beds, not to exceed sixty (60) beds, from the
1089 North Panola Community Hospital to the South Panola Community
1090 Hospital. The authorization for the transfer of those beds shall
1091 be exempt from the certificate of need review process.

1092 (16) Nothing in this section or in any other provision of
1093 Section 41-7-171 et seq. shall prevent any nursing facility from
1094 designating an appropriate number of existing beds in the facility
1095 as beds for providing care exclusively to patients with
1096 Alzheimer's disease.

1097 (17) If there has been no significant commencement of
1098 construction of beds or conversion of existing beds authorized by
1099 a certificate of need issued under authority of this section
1100 within five (5) years of the date of the issuance thereof, then
1101 the certificate of need that was previously issued under this
1102 section shall expire and be null and void. If the previously
1103 issued certificate of need expires, the department may accept
1104 applications for issuance of another certificate of need for the
1105 beds authorized under authority of this section, and may issue a
1106 certificate of need to authorize the construction, expansion or
1107 conversion of the beds authorized under this section.

1108 (18) The State Department of Health shall issue any
1109 certificates of need necessary for Mississippi State University
1110 and a public or private health care provider to jointly acquire
1111 and operate a linear accelerator and a magnetic resonance imaging
1112 unit. Those certificates of need shall cover all capital
1113 expenditures related to the project between Mississippi State

1114 University and the health care provider, including, but not
1115 limited to, the acquisition of the linear accelerator, the
1116 magnetic resonance imaging unit and other radiological modalities;
1117 the offering of linear accelerator and magnetic resonance imaging
1118 services; and the cost of construction of facilities in which to
1119 locate these services. The linear accelerator and the magnetic
1120 resonance imaging unit shall be (a) located in the City of
1121 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1122 Mississippi State University and the public or private health care
1123 provider selected by the Board of Trustees of State Institutions
1124 of Higher Learning through a request for proposals (RFP) process
1125 in which the Board of Trustees of State Institutions of Higher
1126 Learning selects the health care provider that makes the best
1127 overall proposal; (c) available to Mississippi State University
1128 for research purposes two-thirds (2/3) of the time that the linear
1129 accelerator and magnetic resonance imaging unit are operational;
1130 and (d) available to the public or private health care provider
1131 selected by the Board of Trustees of State Institutions of Higher
1132 Learning one-third (1/3) of the time for clinical, diagnostic and
1133 treatment purposes. As a condition to the issuance of any of the
1134 certificate(s) of need under this subsection (18), the health care
1135 provider selected by the Board of Trustees of State Institutions
1136 of Higher Learning shall agree in writing (i) to participate in
1137 all state and federal health care reimbursement programs,
1138 including, but not limited to, Medicare, Medicaid, CHAMPUS, CHIP
1139 and (ii) to treat patients of whom at least one-third (1/3) are
1140 Medicaid beneficiaries and of whom one-third (1/3) are
1141 beneficiaries of the State and School Employees Health Insurance
1142 programs. For purposes of this subsection, the provisions of
1143 Section 41-7-193(1) requiring substantial compliance with the
1144 projection of need as reported in the current State Health Plan
1145 are waived. This subsection (18) shall stand repealed from and
1146 after June 30, 2004.

1147 **SECTION 2.** This act shall take effect and be in force from
1148 and after July 1, 2004.