

By: Representative Fillingane

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 452

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE NURSING HOMES TO ADD UP TO SIXTY NEW BEDS WITHOUT A
 3 CERTIFICATE OF NEED IF THE HOME HAS HAD AN AVERAGE OCCUPANCY RATE
 4 OF AT LEAST NINETY-FIVE PERCENT FOR THE PREVIOUS TWELVE MONTHS; TO
 5 REQUIRE ANY NURSING HOME ADDING BEDS UNDER THIS PROVISION TO FIRST
 6 FILE A NOTICE OF INTENT WITH THE STATE DEPARTMENT OF HEALTH; TO
 7 REQUIRE A CERTAIN NUMBER OF THE NEW BEDS TO BE USED TO PROVIDE
 8 CARE EXCLUSIVELY TO PATIENTS WITH ALZHEIMER'S DISEASE; TO REQUIRE
 9 SUBSTANTIAL CONSTRUCTION OF THE NEW BEDS TO BE BEGUN WITHIN
 10 EIGHTEEN MONTHS AFTER THE NOTICE OF INTENT IS FILED OR THE BEDS
 11 WILL NOT BE LICENSED; TO ALLOW ANY NURSING HOME THAT HAS
 12 PREVIOUSLY ADDED NEW BEDS UNDER THIS PROVISION TO ADD MORE NEW
 13 BEDS UNDER THIS PROVISION BEGINNING TWELVE MONTHS AFTER THE
 14 PREVIOUSLY ADDED BEDS ARE OPERATIONAL; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

- 57 (i) Open heart surgery services;
- 58 (ii) Cardiac catheterization services;
- 59 (iii) Comprehensive inpatient rehabilitation
60 services;
- 61 (iv) Licensed psychiatric services;
- 62 (v) Licensed chemical dependency services;
- 63 (vi) Radiation therapy services;
- 64 (vii) Diagnostic imaging services of an invasive
65 nature, i.e. invasive digital angiography;

66 (viii) Nursing home care as defined in
67 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
68 (ix) Home health services;
69 (x) Swing-bed services;
70 (xi) Ambulatory surgical services;
71 (xii) Magnetic resonance imaging services;
72 (xiii) Extracorporeal shock wave lithotripsy
73 services;
74 (xiv) Long-term care hospital services;
75 (xv) Positron Emission Tomography (PET) services;
76 (e) The relocation of one or more health services from
77 one physical facility or site to another physical facility or
78 site, unless such relocation, which does not involve a capital
79 expenditure by or on behalf of a health care facility, (i) is to a
80 physical facility or site within one thousand three hundred twenty
81 (1,320) feet from the main entrance of the health care facility
82 where the health care service is located, or (ii) is the result of
83 an order of a court of appropriate jurisdiction or a result of
84 pending litigation in such court, or by order of the State
85 Department of Health, or by order of any other agency or legal
86 entity of the state, the federal government, or any political
87 subdivision of either, whose order is also approved by the State
88 Department of Health;
89 (f) The acquisition or otherwise control of any major
90 medical equipment for the provision of medical services; provided,
91 however, (i) the acquisition of any major medical equipment used
92 only for research purposes, and (ii) the acquisition of major
93 medical equipment to replace medical equipment for which a
94 facility is already providing medical services and for which the
95 State Department of Health has been notified before the date of
96 such acquisition shall be exempt from this paragraph; an
97 acquisition for less than fair market value must be reviewed, if
98 the acquisition at fair market value would be subject to review;

99 (g) Changes of ownership of existing health care
100 facilities in which a notice of intent is not filed with the State
101 Department of Health at least thirty (30) days prior to the date
102 such change of ownership occurs, or a change in services or bed
103 capacity as prescribed in paragraph (c) or (d) of this subsection
104 as a result of the change of ownership; an acquisition for less
105 than fair market value must be reviewed, if the acquisition at
106 fair market value would be subject to review;

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

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

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

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

128 (2) The State Department of Health shall not grant approval
129 for or issue a certificate of need to any person proposing the new
130 construction of, addition to, or expansion of any health care
131 facility defined in subparagraphs (iv) (skilled nursing facility)

132 and (vi) (intermediate care facility) of Section 41-7-173(h) or
133 the conversion of vacant hospital beds to provide skilled or
134 intermediate nursing home care, except as hereinafter authorized:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

455 Agreement that the skilled nursing facility will not participate
456 in the Medicaid program shall be a condition of the issuance of a
457 certificate of need to any person under this paragraph (p), and if
458 such skilled nursing facility at any time after the issuance of
459 the certificate of need, regardless of the ownership of the
460 facility, participates in the Medicaid program or admits or keeps
461 any patients in the facility who are participating in the Medicaid

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

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

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

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

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

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

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

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

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

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

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

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

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

593 Plan, to provide care exclusively to patients with Alzheimer's
594 disease.

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

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

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

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

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

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

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

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

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

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

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

725 to Mississippi residents who are presently being treated in
726 out-of-state facilities.

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

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

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

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

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

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

818 (iii) The department may issue a certificate or
819 certificates of need for the construction or expansion of
820 child/adolescent psychiatric beds or the conversion of other beds
821 to child/adolescent psychiatric beds in Warren County. For
822 purposes of this subparagraph, the provisions of Section
823 41-7-193(1) requiring substantial compliance with the projection

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

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

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

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

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

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

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

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

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

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

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

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

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

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

989 care facility as defined in subparagraph (ix) of Section
990 41-7-173(h).

991 (10) Health care facilities owned and/or operated by the
992 state or its agencies are exempt from the restraints in this
993 section against issuance of a certificate of need if such addition
994 or expansion consists of repairing or renovation necessary to
995 comply with the state licensure law. This exception shall not
996 apply to the new construction of any building by such state
997 facility. This exception shall not apply to any health care
998 facilities owned and/or operated by counties, municipalities,
999 districts, unincorporated areas, other defined persons, or any
1000 combination thereof.

1001 (11) The new construction, renovation or expansion of or
1002 addition to any health care facility defined in subparagraph (ii)
1003 (psychiatric hospital), subparagraph (iv) (skilled nursing
1004 facility), subparagraph (vi) (intermediate care facility),
1005 subparagraph (viii) (intermediate care facility for the mentally
1006 retarded) and subparagraph (x) (psychiatric residential treatment
1007 facility) of Section 41-7-173(h) which is owned by the State of
1008 Mississippi and under the direction and control of the State
1009 Department of Mental Health, and the addition of new beds or the
1010 conversion of beds from one category to another in any such
1011 defined health care facility which is owned by the State of
1012 Mississippi and under the direction and control of the State
1013 Department of Mental Health, shall not require the issuance of a
1014 certificate of need under Section 41-7-171 et seq.,
1015 notwithstanding any provision in Section 41-7-171 et seq. to the
1016 contrary.

1017 (12) The new construction, renovation or expansion of or
1018 addition to any veterans homes or domiciliaries for eligible
1019 veterans of the State of Mississippi as authorized under Section
1020 35-1-19 shall not require the issuance of a certificate of need,

1021 notwithstanding any provision in Section 41-7-171 et seq. to the
1022 contrary.

1023 (13) The new construction of a nursing facility or nursing
1024 facility beds or the conversion of other beds to nursing facility
1025 beds shall not require the issuance of a certificate of need,
1026 notwithstanding any provision in Section 41-7-171 et seq. to the
1027 contrary, if the conditions of this subsection are met.

1028 (a) Before any construction or conversion may be
1029 undertaken without a certificate of need, the owner of the nursing
1030 facility, in the case of an existing facility, or the applicant to
1031 construct a nursing facility, in the case of new construction,
1032 first must file a written notice of intent and sign a written
1033 agreement with the State Department of Health that the entire
1034 nursing facility will not at any time participate in or have any
1035 beds certified for participation in the Medicaid program (Section
1036 43-13-101 et seq.), will not admit or keep any patients in the
1037 nursing facility who are participating in the Medicaid program,
1038 and will not submit any claim for Medicaid reimbursement for any
1039 patient in the facility. This written agreement by the owner or
1040 applicant shall be a condition of exercising the authority under
1041 this subsection without a certificate of need, and the agreement
1042 shall be fully binding on any subsequent owner of the nursing
1043 facility if the ownership of the facility is transferred at any
1044 time after the agreement is signed. After the written agreement
1045 is signed, the Division of Medicaid and the State Department of
1046 Health shall not certify any beds in the nursing facility for
1047 participation in the Medicaid program. If the nursing facility
1048 violates the terms of the written agreement by participating in
1049 the Medicaid program, having any beds certified for participation
1050 in the Medicaid program, admitting or keeping any patient in the
1051 facility who is participating in the Medicaid program, or
1052 submitting any claim for Medicaid reimbursement for any patient in
1053 the facility, the State Department of Health shall revoke the

1054 license of the nursing facility at the time that the department
1055 determines, after a hearing complying with due process, that the
1056 facility has violated the terms of the written agreement.

1057 (b) For the purposes of this subsection, participation
1058 in the Medicaid program by a nursing facility includes Medicaid
1059 reimbursement of coinsurance and deductibles for recipients who
1060 are qualified Medicare beneficiaries and/or those who are dually
1061 eligible. Any nursing facility exercising the authority under
1062 this subsection may not bill or submit a claim to the Division of
1063 Medicaid for services to qualified Medicare beneficiaries and/or
1064 those who are dually eligible.

1065 (c) The new construction of a nursing facility or
1066 nursing facility beds or the conversion of other beds to nursing
1067 facility beds described in this section must be either a part of a
1068 completely new continuing care retirement community, as described
1069 in the latest edition of the Mississippi State Health Plan, or an
1070 addition to existing personal care and independent living
1071 components, and so that the completed project will be a continuing
1072 care retirement community, containing (i) independent living
1073 accommodations, (ii) personal care beds, and (iii) the nursing
1074 home facility beds. The three (3) components must be located on a
1075 single site and be operated as one (1) inseparable facility. The
1076 nursing facility component must contain a minimum of thirty (30)
1077 beds. Any nursing facility beds authorized by this section will
1078 not be counted against the bed need set forth in the State Health
1079 Plan, as identified in Section 41-7-171 et seq.

1080 This subsection (13) shall stand repealed from and after July
1081 1, 2005.

1082 (14) The State Department of Health shall issue a
1083 certificate of need to any hospital which is currently licensed
1084 for two hundred fifty (250) or more acute care beds and is located
1085 in any general hospital service area not having a comprehensive
1086 cancer center, for the establishment and equipping of such a

1087 center which provides facilities and services for outpatient
1088 radiation oncology therapy, outpatient medical oncology therapy,
1089 and appropriate support services including the provision of
1090 radiation therapy services. The provision of Section 41-7-193(1)
1091 regarding substantial compliance with the projection of need as
1092 reported in the current State Health Plan is waived for the
1093 purpose of this subsection.

1094 (15) The State Department of Health may authorize the
1095 transfer of hospital beds, not to exceed sixty (60) beds, from the
1096 North Panola Community Hospital to the South Panola Community
1097 Hospital. The authorization for the transfer of those beds shall
1098 be exempt from the certificate of need review process.

1099 (16) The State Department of Health shall issue any
1100 certificates of need necessary for Mississippi State University
1101 and a public or private health care provider to jointly acquire
1102 and operate a linear accelerator and a magnetic resonance imaging
1103 unit. Those certificates of need shall cover all capital
1104 expenditures related to the project between Mississippi State
1105 University and the health care provider, including, but not
1106 limited to, the acquisition of the linear accelerator, the
1107 magnetic resonance imaging unit and other radiological modalities;
1108 the offering of linear accelerator and magnetic resonance imaging
1109 services; and the cost of construction of facilities in which to
1110 locate these services. The linear accelerator and the magnetic
1111 resonance imaging unit shall be (a) located in the City of
1112 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1113 Mississippi State University and the public or private health care
1114 provider selected by Mississippi State University through a
1115 request for proposals (RFP) process in which Mississippi State
1116 University selects, and the Board of Trustees of State
1117 Institutions of Higher Learning approves, the health care provider
1118 that makes the best overall proposal; (c) available to Mississippi
1119 State University for research purposes two-thirds (2/3) of the

1120 time that the linear accelerator and magnetic resonance imaging
1121 unit are operational; and (d) available to the public or private
1122 health care provider selected by Mississippi State University and
1123 approved by the Board of Trustees of State Institutions of Higher
1124 Learning one-third (1/3) of the time for clinical, diagnostic and
1125 treatment purposes. For purposes of this subsection, the
1126 provisions of Section 41-7-193(1) requiring substantial compliance
1127 with the projection of need as reported in the current State
1128 Health Plan are waived.

1129 (17) A nursing facility may construct new nursing facility
1130 beds or convert other beds to nursing facility beds without the
1131 issuance of a certificate of need, notwithstanding any provision
1132 in Section 41-7-171 et seq. to the contrary, if all of the
1133 conditions of this subsection are met.

1134 (a) A nursing facility may not add more than sixty (60)
1135 new nursing facility beds under this subsection at any one (1)
1136 time.

1137 (b) Before a nursing facility may add any new nursing
1138 facility beds under this subsection, the owner of the facility
1139 must first file a written notice of intent with the State
1140 Department of Health that the facility intends to add new nursing
1141 facility beds under this subsection. The facility shall include
1142 in the notice of intent the number of new nursing facility beds
1143 that it intends to add, and the time period within which the new
1144 beds will be operational.

1145 (c) The nursing facility must have had an average rate
1146 of occupancy for the nursing facility beds in the facility that is
1147 not less than ninety-five percent (95%), rounded to the nearest
1148 whole number, for the twelve-month period immediately preceding
1149 the date on which the facility files the notice of intent with the
1150 department.

1151 (d) The nursing facility shall use not less than
1152 one-third (1/3) of the new nursing facility beds that are added by

1153 the facility under this subsection, rounded to the nearest whole
1154 number, or ten (10) of those new beds, whichever is greater, to
1155 provide care exclusively to patients with Alzheimer's disease.
1156 The nursing facility must indicate in the notice of intent filed
1157 with the department the number of the new beds that will be used
1158 to provide care exclusively to patients with Alzheimer's disease,
1159 and the facility shall not use those beds for any other purpose.
1160 The beds that are used to provide care exclusively to patients
1161 with Alzheimer's disease shall meet the same staffing levels,
1162 space requirements and other standards and requirements prescribed
1163 by the department under subsection (2)(r)(iii) of this section.

1164 (e) For any new nursing facility beds added under this
1165 subsection that are to be constructed, the nursing facility must
1166 begin substantial construction of the beds within eighteen (18)
1167 months after the date on which the facility files the notice of
1168 intent with the department. If substantial construction of the
1169 new beds is not begun within the eighteen-month period, the
1170 department shall not issue a license for the new beds at any time
1171 after the eighteen-month period.

1172 (f) After the nursing facility has added new nursing
1173 facility beds under this subsection, the facility may add new
1174 nursing facility beds again under this subsection at any time
1175 beginning twelve (12) months after the beds that were previously
1176 added under this subsection are operational, if all the conditions
1177 of this subsection are met with regard to the later addition of
1178 new beds.

1179 (18) Nothing in this section or in any other provision of
1180 Section 41-7-171 et seq. shall prevent any nursing facility from
1181 designating an appropriate number of existing beds in the facility
1182 as beds for providing care exclusively to patients with
1183 Alzheimer's disease.

1184 **SECTION 2.** This act shall take effect and be in force from
1185 and after July 1, 2006.