

By: Representative Holland

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 599

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A
3 CERTIFICATE OF NEED TO A FAITH-BASED NONPROFIT CORPORATION IN
4 MISSISSIPPI TO CONSTRUCT AN ASSISTED LIVING FACILITY, NOT
5 EXCEEDING TWENTY BEDS, AS A DEMONSTRATION PROJECT IN MADISON
6 COUNTY THAT WILL PROVIDE A VARIETY OF SERVICES TO ADULTS WITH ALL
7 LEVELS OF MENTAL RETARDATION THROUGHOUT THEIR LIVES; AND FOR
8 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

995 (11) The new construction, renovation or expansion of or
996 addition to any health care facility defined in subparagraph (ii)
997 (psychiatric hospital), subparagraph (iv) (skilled nursing
998 facility), subparagraph (vi) (intermediate care facility),
999 subparagraph (viii) (intermediate care facility for the mentally
1000 retarded) and subparagraph (x) (psychiatric residential treatment
1001 facility) of Section 41-7-173(h) which is owned by the State of
1002 Mississippi and under the direction and control of the State
1003 Department of Mental Health, and the addition of new beds or the
1004 conversion of beds from one category to another in any such
1005 defined health care facility which is owned by the State of
1006 Mississippi and under the direction and control of the State
1007 Department of Mental Health, shall not require the issuance of a
1008 certificate of need under Section 41-7-171 et seq.,
1009 notwithstanding any provision in Section 41-7-171 et seq. to the
1010 contrary.

1011 (12) The new construction, renovation or expansion of or
1012 addition to any veterans homes or domiciliaries for eligible
1013 veterans of the State of Mississippi as authorized under Section
1014 35-1-19 shall not require the issuance of a certificate of need,
1015 notwithstanding any provision in Section 41-7-171 et seq. to the
1016 contrary.

1017 (13) The new construction of a nursing facility or nursing
1018 facility beds or the conversion of other beds to nursing facility
1019 beds shall not require the issuance of a certificate of need,
1020 notwithstanding any provision in Section 41-7-171 et seq. to the
1021 contrary, if the conditions of this subsection are met.

1022 (a) Before any construction or conversion may be
1023 undertaken without a certificate of need, the owner of the nursing
1024 facility, in the case of an existing facility, or the applicant to
1025 construct a nursing facility, in the case of new construction,
1026 first must file a written notice of intent and sign a written
1027 agreement with the State Department of Health that the entire
1028 nursing facility will not at any time participate in or have any
1029 beds certified for participation in the Medicaid program (Section
1030 43-13-101 et seq.), will not admit or keep any patients in the
1031 nursing facility who are participating in the Medicaid program,
1032 and will not submit any claim for Medicaid reimbursement for any
1033 patient in the facility. This written agreement by the owner or
1034 applicant shall be a condition of exercising the authority under
1035 this subsection without a certificate of need, and the agreement
1036 shall be fully binding on any subsequent owner of the nursing
1037 facility if the ownership of the facility is transferred at any
1038 time after the agreement is signed. After the written agreement
1039 is signed, the Division of Medicaid and the State Department of
1040 Health shall not certify any beds in the nursing facility for
1041 participation in the Medicaid program. If the nursing facility
1042 violates the terms of the written agreement by participating in
1043 the Medicaid program, having any beds certified for participation
1044 in the Medicaid program, admitting or keeping any patient in the
1045 facility who is participating in the Medicaid program, or
1046 submitting any claim for Medicaid reimbursement for any patient in
1047 the facility, the State Department of Health shall revoke the
1048 license of the nursing facility at the time that the department

1049 determines, after a hearing complying with due process, that the
1050 facility has violated the terms of the written agreement.

1051 (b) For the purposes of this subsection, participation
1052 in the Medicaid program by a nursing facility includes Medicaid
1053 reimbursement of coinsurance and deductibles for recipients who
1054 are qualified Medicare beneficiaries and/or those who are dually
1055 eligible. Any nursing facility exercising the authority under
1056 this subsection may not bill or submit a claim to the Division of
1057 Medicaid for services to qualified Medicare beneficiaries and/or
1058 those who are dually eligible.

1059 (c) The new construction of a nursing facility or
1060 nursing facility beds or the conversion of other beds to nursing
1061 facility beds described in this section must be either a part of a
1062 completely new continuing care retirement community, as described
1063 in the latest edition of the Mississippi State Health Plan, or an
1064 addition to existing personal care and independent living
1065 components, and so that the completed project will be a continuing
1066 care retirement community, containing (i) independent living
1067 accommodations, (ii) personal care beds, and (iii) the nursing
1068 home facility beds. The three (3) components must be located on a
1069 single site and be operated as one (1) inseparable facility. The
1070 nursing facility component must contain a minimum of thirty (30)
1071 beds. Any nursing facility beds authorized by this section will
1072 not be counted against the bed need set forth in the State Health
1073 Plan, as identified in Section 41-7-171 et seq.

1074 This subsection (13) shall stand repealed from and after July
1075 1, 2005.

1076 (14) The State Department of Health shall issue a
1077 certificate of need to any hospital which is currently licensed
1078 for two hundred fifty (250) or more acute care beds and is located
1079 in any general hospital service area not having a comprehensive
1080 cancer center, for the establishment and equipping of such a
1081 center which provides facilities and services for outpatient

1082 radiation oncology therapy, outpatient medical oncology therapy,
1083 and appropriate support services including the provision of
1084 radiation therapy services. The provision of Section 41-7-193(1)
1085 regarding substantial compliance with the projection of need as
1086 reported in the current State Health Plan is waived for the
1087 purpose of this subsection.

1088 (15) The State Department of Health may authorize the
1089 transfer of hospital beds, not to exceed sixty (60) beds, from the
1090 North Panola Community Hospital to the South Panola Community
1091 Hospital. The authorization for the transfer of those beds shall
1092 be exempt from the certificate of need review process.

1093 (16) The State Department of Health shall issue any
1094 certificates of need necessary for Mississippi State University
1095 and a public or private health care provider to jointly acquire
1096 and operate a linear accelerator and a magnetic resonance imaging
1097 unit. Those certificates of need shall cover all capital
1098 expenditures related to the project between Mississippi State
1099 University and the health care provider, including, but not
1100 limited to, the acquisition of the linear accelerator, the
1101 magnetic resonance imaging unit and other radiological modalities;
1102 the offering of linear accelerator and magnetic resonance imaging
1103 services; and the cost of construction of facilities in which to
1104 locate these services. The linear accelerator and the magnetic
1105 resonance imaging unit shall be (a) located in the City of
1106 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1107 Mississippi State University and the public or private health care
1108 provider selected by Mississippi State University through a
1109 request for proposals (RFP) process in which Mississippi State
1110 University selects, and the Board of Trustees of State
1111 Institutions of Higher Learning approves, the health care provider
1112 that makes the best overall proposal; (c) available to Mississippi
1113 State University for research purposes two-thirds (2/3) of the
1114 time that the linear accelerator and magnetic resonance imaging

1115 unit are operational; and (d) available to the public or private
1116 health care provider selected by Mississippi State University and
1117 approved by the Board of Trustees of State Institutions of Higher
1118 Learning one-third (1/3) of the time for clinical, diagnostic and
1119 treatment purposes. For purposes of this subsection, the
1120 provisions of Section 41-7-193(1) requiring substantial compliance
1121 with the projection of need as reported in the current State
1122 Health Plan are waived.

1123 (17) The State Department of Health shall issue a
1124 certificate of need to a faith-based nonprofit corporation
1125 incorporated in the State of Mississippi to construct an assisted
1126 living facility, not exceeding twenty (20) beds, as a
1127 demonstration project in Madison County that will provide personal
1128 care, vocational, recreational, mental and spiritual services to
1129 adults with all levels of mental retardation throughout their
1130 lives. For purposes of this subsection, the provisions of Section
1131 41-7-193(1) requiring substantial compliance with the projection
1132 of need as reported in the current State Health Plan are waived.
1133 There shall be no prohibition or restrictions on participation in
1134 the Medicaid program (Section 43-13-101 et seq.) for the beds
1135 authorized under this subsection.

1136 (18) Nothing in this section or in any other provision of
1137 Section 41-7-171 et seq. shall prevent any nursing facility from
1138 designating an appropriate number of existing beds in the facility
1139 as beds for providing care exclusively to patients with
1140 Alzheimer's disease.

1141 **SECTION 2.** This act shall take effect and be in force from
1142 and after July 1, 2006.