

By: Representative Flaggs

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1234

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
 2 TO DELETE THE REQUIREMENT FOR A CERTIFICATE OF NEED FOR
 3 EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY SERVICES; TO INCREASE THE
 4 DISTANCE THAT HEALTH SERVICES MAY BE RELOCATED TO ANOTHER FACILITY
 5 OR SITE WITHOUT REQUIRING A CERTIFICATE OF NEED; TO PROVIDE THAT A
 6 CERTIFICATE OF NEED IS REQUIRED FOR THE REOPENING OF A HEALTH CARE
 7 FACILITY THAT HAS BEEN WITHOUT A LICENSE FOR TWELVE MONTHS; TO
 8 EXEMPT FROM THE REQUIREMENT FOR A CERTIFICATE OF NEED THE
 9 REPLACEMENT OR RELOCATION OF A CRITICAL ACCESS HOSPITAL SO LONG AS
 10 THE CRITICAL ACCESS HOSPITAL COMPLIES WITH ALL APPLICABLE FEDERAL
 11 LAWS AND REGULATIONS REGARDING THE REPLACEMENT OR RELOCATION; AND
 12 FOR RELATED PURPOSES.

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

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

16 41-7-191. (1) No person shall engage in any of the
 17 following activities without obtaining the required certificate of
 18 need:

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

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

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

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

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

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

- 66 (ix) Home health services;
67 (x) Swing-bed services;
68 (xi) Ambulatory surgical services;
69 (xii) Magnetic resonance imaging services;

70 * * *

- 71 (xiii) Long-term care hospital services;
72 (xiv) Positron Emission Tomography (PET) services;

73 (e) The relocation of one or more health services from
74 one physical facility or site to another physical facility or
75 site, unless such relocation, which does not involve a capital
76 expenditure by or on behalf of a health care facility, (i) is to a
77 physical facility or site within five thousand two hundred eighty
78 (5,280) feet from the main entrance of the health care facility
79 where the health care service is located, or (ii) is the result of
80 an order of a court of appropriate jurisdiction or a result of
81 pending litigation in such court, or by order of the State
82 Department of Health, or by order of any other agency or legal
83 entity of the state, the federal government, or any political
84 subdivision of either, whose order is also approved by the State
85 Department of Health;

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

96 (g) Changes of ownership of existing health care
97 facilities in which a notice of intent is not filed with the State
98 Department of Health at least thirty (30) days prior to the date

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

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

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

116 (j) Any capital expenditure or deferred capital
117 expenditure by or on behalf of a health care facility not covered
118 by paragraphs (a) through (h);

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

125 (l) Reopening a health care facility that has been
126 without a license for a period of twelve (12) months or more;

127 (m) The replacement or relocation of a health care
128 facility designated as a critical access hospital shall be exempt
129 from this subsection so long as the critical access hospital
130 complies with all applicable federal laws and regulations
131 regarding the replacement or relocation.

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

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

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

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

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

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

193 (e) The State Department of Health may issue a
194 certificate of need for the construction of a nursing facility or
195 the conversion of beds to nursing facility beds at a personal care
196 facility for the elderly in Lowndes County that is owned and
197 operated by a Mississippi nonprofit corporation, not to exceed

198 sixty (60) beds. From and after July 1, 1999, there shall be no
199 prohibition or restrictions on participation in the Medicaid
200 program (Section 43-13-101 et seq.) for the beds in the nursing
201 facility that were authorized under this paragraph (e).

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

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

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

226 (i) The department may issue a certificate of need for
227 the new construction of a skilled nursing facility in Leake
228 County, provided that the recipient of the certificate of need
229 agrees in writing that the skilled nursing facility will not at
230 any time participate in the Medicaid program (Section 43-13-101 et

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

263 facility at any time after the expiration of the eighteen-month
264 period.

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

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

296 2001. After this written agreement is executed, the Division of
297 Medicaid and the State Department of Health shall not certify more
298 than thirty (30) of the beds in the facility for participation in
299 the Medicaid program. If the facility violates the terms of the
300 written agreement by admitting or keeping in the facility on a
301 regular or continuing basis more than thirty (30) patients who are
302 participating in the Medicaid program, the State Department of
303 Health shall revoke the license of the facility, at the time that
304 the department determines, after a hearing complying with due
305 process, that the facility has violated the written agreement.

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

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

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

359 (n) The department may issue a certificate of need for
360 the new construction, addition or conversion of skilled nursing
361 facility beds in Madison County, provided that the recipient of

362 the certificate of need agrees in writing that the skilled nursing
363 facility will not at any time participate in the Medicaid program
364 (Section 43-13-101 et seq.) or admit or keep any patients in the
365 skilled nursing facility who are participating in the Medicaid
366 program. This written agreement by the recipient of the
367 certificate of need shall be fully binding on any subsequent owner
368 of the skilled nursing facility, if the ownership of the facility
369 is transferred at any time after the issuance of the certificate
370 of need. Agreement that the skilled nursing facility will not
371 participate in the Medicaid program shall be a condition of the
372 issuance of a certificate of need to any person under this
373 paragraph (n), and if such skilled nursing facility at any time
374 after the issuance of the certificate of need, regardless of the
375 ownership of the facility, participates in the Medicaid program or
376 admits or keeps any patients in the facility who are participating
377 in the Medicaid program, the State Department of Health shall
378 revoke the certificate of need, if it is still outstanding, and
379 shall deny or revoke the license of the skilled nursing facility,
380 at the time that the department determines, after a hearing
381 complying with due process, that the facility has failed to comply
382 with any of the conditions upon which the certificate of need was
383 issued, as provided in this paragraph and in the written agreement
384 by the recipient of the certificate of need. The total number of
385 nursing facility beds that may be authorized by any certificate of
386 need issued under this paragraph (n) shall not exceed sixty (60)
387 beds. If the certificate of need authorized under this paragraph
388 is not issued within twelve (12) months after July 1, 1998, the
389 department shall deny the application for the certificate of need
390 and shall not issue the certificate of need at any time after the
391 twelve-month period, unless the issuance is contested. If the
392 certificate of need is issued and substantial construction of the
393 nursing facility beds has not commenced within eighteen (18)
394 months after the effective date of July 1, 1998, the State

395 Department of Health, after a hearing complying with due process,
396 shall revoke the certificate of need if it is still outstanding,
397 and the department shall not issue a license for the nursing
398 facility at any time after the eighteen-month period. Provided,
399 however, that if the issuance of the certificate of need is
400 contested, the department shall require substantial construction
401 of the nursing facility beds within six (6) months after final
402 adjudication on the issuance of the certificate of need.

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

428 by the recipient of the certificate of need. The total number of
429 nursing facility beds that may be authorized by any certificate of
430 need issued under this paragraph (o) shall not exceed sixty (60)
431 beds. If the certificate of need authorized under this paragraph
432 is not issued within twelve (12) months after July 1, 2001, the
433 department shall deny the application for the certificate of need
434 and shall not issue the certificate of need at any time after the
435 twelve-month period, unless the issuance is contested. If the
436 certificate of need is issued and substantial construction of the
437 nursing facility beds has not commenced within eighteen (18)
438 months after the effective date of July 1, 2001, the State
439 Department of Health, after a hearing complying with due process,
440 shall revoke the certificate of need if it is still outstanding,
441 and the department shall not issue a license for the nursing
442 facility at any time after the eighteen-month period. Provided,
443 however, that if the issuance of the certificate of need is
444 contested, the department shall require substantial construction
445 of the nursing facility beds within six (6) months after final
446 adjudication on the issuance of the certificate of need.

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

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

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

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

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

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

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

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

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

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

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

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

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

622 (3) The State Department of Health may grant approval for
623 and issue certificates of need to any person proposing the new

624 construction of, addition to, conversion of beds of or expansion
625 of any health care facility defined in subparagraph (x)
626 (psychiatric residential treatment facility) of Section
627 41-7-173(h). The total number of beds which may be authorized by
628 such certificates of need shall not exceed three hundred
629 thirty-four (334) beds for the entire state.

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

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

657 the certificate of need under this paragraph, and the agreement
658 shall be fully binding on any subsequent owner of the psychiatric
659 residential treatment facility if the ownership of the facility is
660 transferred at any time after the issuance of the certificate of
661 need. After this written agreement is executed, the Division of
662 Medicaid and the State Department of Health shall not certify more
663 than thirty (30) of the beds in the psychiatric residential
664 treatment facility for participation in the Medicaid program for
665 the use of any patients other than those who are participating
666 only in the Medicaid program of another state. If the psychiatric
667 residential treatment facility violates the terms of the written
668 agreement by admitting or keeping in the facility on a regular or
669 continuing basis more than thirty (30) patients who are
670 participating in the Mississippi Medicaid program, the State
671 Department of Health shall revoke the license of the facility, at
672 the time that the department determines, after a hearing complying
673 with due process, that the facility has violated the condition
674 upon which the certificate of need was issued, as provided in this
675 paragraph and in the written agreement.

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

680 (c) Of the total number of beds authorized under this
681 subsection, the department shall issue a certificate of need to a
682 hospital currently operating Medicaid-certified acute psychiatric
683 beds for adolescents in DeSoto County, for the establishment of a
684 forty-bed psychiatric residential treatment facility in DeSoto
685 County, provided that the hospital agrees in writing (i) that the
686 hospital shall give priority for the use of those forty (40) beds
687 to Mississippi residents who are presently being treated in
688 out-of-state facilities, and (ii) that no more than fifteen (15)
689 of the beds at the psychiatric residential treatment facility will

690 be certified for participation in the Medicaid program (Section
691 43-13-101 et seq.), and that no claim will be submitted for
692 Medicaid reimbursement for more than fifteen (15) patients in the
693 psychiatric residential treatment facility in any day or for any
694 patient in the psychiatric residential treatment facility who is
695 in a bed that is not Medicaid-certified. This written agreement
696 by the recipient of the certificate of need shall be a condition
697 of the issuance of the certificate of need under this paragraph,
698 and the agreement shall be fully binding on any subsequent owner
699 of the psychiatric residential treatment facility if the ownership
700 of the facility is transferred at any time after the issuance of
701 the certificate of need. After this written agreement is
702 executed, the Division of Medicaid and the State Department of
703 Health shall not certify more than fifteen (15) of the beds in the
704 psychiatric residential treatment facility for participation in
705 the Medicaid program. If the psychiatric residential treatment
706 facility violates the terms of the written agreement by admitting
707 or keeping in the facility on a regular or continuing basis more
708 than fifteen (15) patients who are participating in the Medicaid
709 program, the State Department of Health shall revoke the license
710 of the facility, at the time that the department determines, after
711 a hearing complying with due process, that the facility has
712 violated the condition upon which the certificate of need was
713 issued, as provided in this paragraph and in the written
714 agreement.

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

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

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

756 under this paragraph or for the beds converted pursuant to the
757 authority of that certificate of need.

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

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

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

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

822 (iii) The department may issue a certificate or
823 certificates of need for the construction or expansion of
824 child/adolescent psychiatric beds or the conversion of other beds
825 to child/adolescent psychiatric beds in Warren County. For
826 purposes of this subparagraph, the provisions of Section
827 41-7-193(1) requiring substantial compliance with the projection
828 of need as reported in the current State Health Plan are waived.
829 The total number of beds that may be authorized under the
830 authority of this subparagraph shall not exceed twenty (20) beds.
831 There shall be no prohibition or restrictions on participation in
832 the Medicaid program (Section 43-13-101 et seq.) for the person
833 receiving the certificate of need authorized under this
834 subparagraph (a)(iii) or for the beds converted pursuant to the
835 authority of that certificate of need.

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

847 (iv) The department shall issue a certificate of
848 need to the Region 7 Mental Health/Retardation Commission for the
849 construction or expansion of child/adolescent psychiatric beds or
850 the conversion of other beds to child/adolescent psychiatric beds
851 in any of the counties served by the commission. For purposes of
852 this subparagraph, the provisions of Section 41-7-193(1) requiring
853 substantial compliance with the projection of need as reported in
854 the current State Health Plan is waived. The total number of beds

855 that may be authorized under the authority of this subparagraph
856 shall not exceed twenty (20) beds. There shall be no prohibition
857 or restrictions on participation in the Medicaid program (Section
858 43-13-101 et seq.) for the person receiving the certificate of
859 need authorized under this subparagraph (a)(iv) or for the beds
860 converted pursuant to the authority of that certificate of need.

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

887 need was issued, as provided in this subparagraph and in the
888 written agreement by the recipient of the certificate of need.

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

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

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

913 (6) The State Department of Health shall issue a certificate
914 of need to a Mississippi corporation qualified to manage a
915 long-term care hospital as defined in Section 41-7-173(h)(xii) in
916 Harrison County, not to exceed eighty (80) beds, including any
917 necessary renovation or construction required for licensure and
918 certification, provided that the recipient of the certificate of
919 need agrees in writing that the long-term care hospital will not

920 at any time participate in the Medicaid program (Section 43-13-101
921 et seq.) or admit or keep any patients in the long-term care
922 hospital who are participating in the Medicaid program. This
923 written agreement by the recipient of the certificate of need
924 shall be fully binding on any subsequent owner of the long-term
925 care hospital, if the ownership of the facility is transferred at
926 any time after the issuance of the certificate of need. Agreement
927 that the long-term care hospital will not participate in the
928 Medicaid program shall be a condition of the issuance of a
929 certificate of need to any person under this subsection (6), and
930 if such long-term care hospital at any time after the issuance of
931 the certificate of need, regardless of the ownership of the
932 facility, participates in the Medicaid program or admits or keeps
933 any patients in the facility who are participating in the Medicaid
934 program, the State Department of Health shall revoke the
935 certificate of need, if it is still outstanding, and shall deny or
936 revoke the license of the long-term care hospital, at the time
937 that the department determines, after a hearing complying with due
938 process, that the facility has failed to comply with any of the
939 conditions upon which the certificate of need was issued, as
940 provided in this subsection and in the written agreement by the
941 recipient of the certificate of need. For purposes of this
942 subsection, the provision of Section 41-7-193(1) requiring
943 substantial compliance with the projection of need as reported in
944 the current State Health Plan is hereby waived.

945 (7) The State Department of Health may issue a certificate
946 of need to any hospital in the state to utilize a portion of its
947 beds for the "swing-bed" concept. Any such hospital must be in
948 conformance with the federal regulations regarding such swing-bed
949 concept at the time it submits its application for a certificate
950 of need to the State Department of Health, except that such
951 hospital may have more licensed beds or a higher average daily
952 census (ADC) than the maximum number specified in federal

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

983 (8) The Department of Health shall not grant approval for or
984 issue a certificate of need to any person proposing the new
985 construction of, addition to or expansion of a health care

986 facility as defined in subparagraph (viii) of Section 41-7-173(h).

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

995 (10) Health care facilities owned and/or operated by the
996 state or its agencies are exempt from the restraints in this
997 section against issuance of a certificate of need if such addition
998 or expansion consists of repairing or renovation necessary to
999 comply with the state licensure law. This exception shall not
1000 apply to the new construction of any building by such state
1001 facility. This exception shall not apply to any health care
1002 facilities owned and/or operated by counties, municipalities,
1003 districts, unincorporated areas, other defined persons, or any
1004 combination thereof.

1005 (11) The new construction, renovation or expansion of or
1006 addition to any health care facility defined in subparagraph (ii)
1007 (psychiatric hospital), subparagraph (iv) (skilled nursing
1008 facility), subparagraph (vi) (intermediate care facility),
1009 subparagraph (viii) (intermediate care facility for the mentally
1010 retarded) and subparagraph (x) (psychiatric residential treatment
1011 facility) of Section 41-7-173(h) which is owned by the State of
1012 Mississippi and under the direction and control of the State
1013 Department of Mental Health, and the addition of new beds or the
1014 conversion of beds from one category to another in any such
1015 defined health care facility which is owned by the State of
1016 Mississippi and under the direction and control of the State
1017 Department of Mental Health, shall not require the issuance of a
1018 certificate of need under Section 41-7-171 et seq.,

1019 notwithstanding any provision in Section 41-7-171 et seq. to the
1020 contrary.

1021 (12) The new construction, renovation or expansion of or
1022 addition to any veterans homes or domiciliaries for eligible
1023 veterans of the State of Mississippi as authorized under Section
1024 35-1-19 shall not require the issuance of a certificate of need,
1025 notwithstanding any provision in Section 41-7-171 et seq. to the
1026 contrary.

1027 (13) The new construction of a nursing facility or nursing
1028 facility beds or the conversion of other beds to nursing facility
1029 beds shall not require the issuance of a certificate of need,
1030 notwithstanding any provision in Section 41-7-171 et seq. to the
1031 contrary, if the conditions of this subsection are met.

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

1052 violates the terms of the written agreement by participating in
1053 the Medicaid program, having any beds certified for participation
1054 in the Medicaid program, admitting or keeping any patient in the
1055 facility who is participating in the Medicaid program, or
1056 submitting any claim for Medicaid reimbursement for any patient in
1057 the facility, the State Department of Health shall revoke the
1058 license of the nursing facility at the time that the department
1059 determines, after a hearing complying with due process, that the
1060 facility has violated the terms of the written agreement.

1061 (b) For the purposes of this subsection, participation
1062 in the Medicaid program by a nursing facility includes Medicaid
1063 reimbursement of coinsurance and deductibles for recipients who
1064 are qualified Medicare beneficiaries and/or those who are dually
1065 eligible. Any nursing facility exercising the authority under
1066 this subsection may not bill or submit a claim to the Division of
1067 Medicaid for services to qualified Medicare beneficiaries and/or
1068 those who are dually eligible.

1069 (c) The new construction of a nursing facility or
1070 nursing facility beds or the conversion of other beds to nursing
1071 facility beds described in this section must be either a part of a
1072 completely new continuing care retirement community, as described
1073 in the latest edition of the Mississippi State Health Plan, or an
1074 addition to existing personal care and independent living
1075 components, and so that the completed project will be a continuing
1076 care retirement community, containing (i) independent living
1077 accommodations, (ii) personal care beds, and (iii) the nursing
1078 home facility beds. The three (3) components must be located on a
1079 single site and be operated as one (1) inseparable facility. The
1080 nursing facility component must contain a minimum of thirty (30)
1081 beds. Any nursing facility beds authorized by this section will
1082 not be counted against the bed need set forth in the State Health
1083 Plan, as identified in Section 41-7-171 et seq.

1084 This subsection (13) shall stand repealed from and after July
1085 1, 2005.

1086 (14) The State Department of Health shall issue a
1087 certificate of need to any hospital which is currently licensed
1088 for two hundred fifty (250) or more acute care beds and is located
1089 in any general hospital service area not having a comprehensive
1090 cancer center, for the establishment and equipping of such a
1091 center which provides facilities and services for outpatient
1092 radiation oncology therapy, outpatient medical oncology therapy,
1093 and appropriate support services including the provision of
1094 radiation therapy services. The provision of Section 41-7-193(1)
1095 regarding substantial compliance with the projection of need as
1096 reported in the current State Health Plan is waived for the
1097 purpose of this subsection.

1098 (15) The State Department of Health may authorize the
1099 transfer of hospital beds, not to exceed sixty (60) beds, from the
1100 North Panola Community Hospital to the South Panola Community
1101 Hospital. The authorization for the transfer of those beds shall
1102 be exempt from the certificate of need review process.

1103 (16) The State Department of Health shall issue any
1104 certificates of need necessary for Mississippi State University
1105 and a public or private health care provider to jointly acquire
1106 and operate a linear accelerator and a magnetic resonance imaging
1107 unit. Those certificates of need shall cover all capital
1108 expenditures related to the project between Mississippi State
1109 University and the health care provider, including, but not
1110 limited to, the acquisition of the linear accelerator, the
1111 magnetic resonance imaging unit and other radiological modalities;
1112 the offering of linear accelerator and magnetic resonance imaging
1113 services; and the cost of construction of facilities in which to
1114 locate these services. The linear accelerator and the magnetic
1115 resonance imaging unit shall be (a) located in the City of
1116 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by

1117 Mississippi State University and the public or private health care
1118 provider selected by Mississippi State University through a
1119 request for proposals (RFP) process in which Mississippi State
1120 University selects, and the Board of Trustees of State
1121 Institutions of Higher Learning approves, the health care provider
1122 that makes the best overall proposal; (c) available to Mississippi
1123 State University for research purposes two-thirds (2/3) of the
1124 time that the linear accelerator and magnetic resonance imaging
1125 unit are operational; and (d) available to the public or private
1126 health care provider selected by Mississippi State University and
1127 approved by the Board of Trustees of State Institutions of Higher
1128 Learning one-third (1/3) of the time for clinical, diagnostic and
1129 treatment purposes. For purposes of this subsection, the
1130 provisions of Section 41-7-193(1) requiring substantial compliance
1131 with the projection of need as reported in the current State
1132 Health Plan are waived.

1133 (17) Nothing in this section or in any other provision of
1134 Section 41-7-171 et seq. shall prevent any nursing facility from
1135 designating an appropriate number of existing beds in the facility
1136 as beds for providing care exclusively to patients with
1137 Alzheimer's disease.

1138 **SECTION 2.** This act shall take effect and be in force from
1139 and after July 1, 2006.