

By: Representatives Young, Scott (80th)

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 767
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR ADDITIONAL
 3 ADOLESCENT PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN
 4 LAUDERDALE COUNTY; TO REQUIRE THE FACILITY TO GIVE PRIORITY IN
 5 ADMISSIONS TO THOSE BEDS TO PATIENTS WHO OTHERWISE WOULD REQUIRE
 6 OUT-OF-STATE PLACEMENT; TO INCREASE THE DISTANCE THAT A HEALTH
 7 CARE FACILITY OR MAJOR MEDICAL EQUIPMENT MAY BE RELOCATED WITHOUT
 8 A CERTIFICATE OF NEED; TO ALLOW A NURSING FACILITY IN LOWNDES
 9 COUNTY TO HAVE THIRTY BEDS CERTIFIED FOR PARTICIPATION IN THE
 10 MEDICAID PROGRAM; TO PROVIDE THAT CERTAIN COUNTY-OWNED HOSPITALS
 11 SHALL BE GIVEN PRIORITY IN RECEIVING CERTIFICATES OF NEED FOR
 12 NURSING FACILITY BEDS, IF CERTAIN CONDITIONS ARE MET; TO PROVIDE
 13 THAT IF THERE HAS BEEN NO SIGNIFICANT COMMENCEMENT OF CONSTRUCTION
 14 OF PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS OR
 15 CHILD/ADOLESCENT PSYCHIATRIC BEDS THAT WERE AUTHORIZED BY
 16 PREVIOUSLY ISSUED CERTIFICATES OF NEED, THEN THOSE CERTIFICATES OF
 17 NEED SHALL EXPIRE AND THE DEPARTMENT MAY ISSUE NEW CERTIFICATES OF
 18 NEED TO AUTHORIZE THOSE BEDS; TO EXTEND THE AUTOMATIC REPEALER ON
 19 THE EXEMPTION FROM THE REQUIREMENT OF A CERTIFICATE OF NEED FOR
 20 NURSING FACILITY BEDS AT CONTINUING CARE RETIREMENT COMMUNITIES
 21 MEETING CERTAIN CRITERIA; TO ALLOW THE STATE DEPARTMENT OF HEALTH
 22 TO AUTHORIZE THE TRANSFER OF UP TO SIXTY HOSPITAL BEDS FROM THE
 23 NORTH PANOLA COMMUNITY HOSPITAL TO THE SOUTH PANOLA COMMUNITY
 24 HOSPITAL AND TO PROVIDE THAT THE AUTHORIZATION FOR THE TRANSFER OF
 25 THOSE BEDS SHALL BE EXEMPT FROM THE CERTIFICATE OF NEED REVIEW
 26 PROCESS; AND FOR RELATED PURPOSES.

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

28 SECTION 1. Section 41-7-191, Mississippi Code of 1972, as
 29 amended by Senate Bill No. 2333, 2001 Regular Session, is amended
 30 as follows:

31 41-7-191. (1) No person shall engage in any of the
 32 following activities without obtaining the required certificate of
 33 need:

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

36 (b) The relocation of a health care facility or portion
 37 thereof, or major medical equipment, unless such relocation of a

38 health care facility or portion thereof, or major medical
39 equipment, which does not involve a capital expenditure by or on
40 behalf of a health care facility, is within five thousand two
41 hundred eighty (5,280) feet from the main entrance of the health
42 care facility;

43 (c) A change over a period of two (2) years' time, as
44 established by the State Department of Health, in existing bed
45 complement through the addition of more than ten (10) beds or more
46 than ten percent (10%) of the total bed capacity of a designated
47 licensed category or subcategory of any health care facility,
48 whichever is less, from one physical facility or site to another;
49 the conversion over a period of two (2) years' time, as
50 established by the State Department of Health, of existing bed
51 complement of more than ten (10) beds or more than ten percent
52 (10%) of the total bed capacity of a designated licensed category
53 or subcategory of any such health care facility, whichever is
54 less; or the alteration, modernizing or refurbishing of any unit
55 or department wherein such beds may be located; provided, however,
56 that from and after July 1, 1994, no health care facility shall be
57 authorized to add any beds or convert any beds to another category
58 of beds without a certificate of need under the authority of
59 subsection (1)(c) of this section unless there is a projected need
60 for such beds in the planning district in which the facility is
61 located, as reported in the most current State Health Plan;

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

- 66 (i) Open heart surgery services;
67 (ii) Cardiac catheterization services;
68 (iii) Comprehensive inpatient rehabilitation
69 services;
70 (iv) Licensed psychiatric services;

71 (v) Licensed chemical dependency services;
72 (vi) Radiation therapy services;
73 (vii) Diagnostic imaging services of an invasive
74 nature, i.e. invasive digital angiography;
75 (viii) Nursing home care as defined in
76 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
77 (ix) Home health services;
78 (x) Swing-bed services;
79 (xi) Ambulatory surgical services;
80 (xii) Magnetic resonance imaging services;
81 (xiii) Extracorporeal shock wave lithotripsy
82 services;
83 (xiv) Long-term care hospital services;
84 (xv) Positron Emission Tomography (PET) Services;
85 (e) The relocation of one or more health services from
86 one physical facility or site to another physical facility or
87 site, unless such relocation, which does not involve a capital
88 expenditure by or on behalf of a health care facility, (i) is to a
89 physical facility or site within one thousand three hundred twenty
90 (1,320) feet from the main entrance of the health care facility
91 where the health care service is located, or (ii) is the result of
92 an order of a court of appropriate jurisdiction or a result of
93 pending litigation in such court, or by order of the State
94 Department of Health, or by order of any other agency or legal
95 entity of the state, the federal government, or any political
96 subdivision of either, whose order is also approved by the State
97 Department of Health;
98 (f) The acquisition or otherwise control of any major
99 medical equipment for the provision of medical services; provided,
100 however, (i) the acquisition of any major medical equipment used
101 only for research purposes, and (ii) the acquisition of major
102 medical equipment to replace medical equipment for which a
103 facility is already providing medical services and for which the

104 State Department of Health has been notified before the date of
105 such acquisition shall be exempt from this paragraph; an
106 acquisition for less than fair market value must be reviewed, if
107 the acquisition at fair market value would be subject to review;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

268 facility at any time after the expiration of the eighteen-month
269 period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

681 If by January 1, 2002, there has been no significant
682 commencement of construction of the beds authorized under this
683 paragraph (b), or no significant action taken to convert existing
684 beds to the beds authorized under this paragraph, then the
685 certificate of need that was previously issued under this
686 paragraph shall expire. If the previously issued certificate of
687 need expires, the department may accept applications for issuance
688 of another certificate of need for the beds authorized under this
689 paragraph, and may issue a certificate of need to authorize the
690 construction, expansion or conversion of the beds authorized under
691 this paragraph.

692 (c) Of the total number of beds authorized under this
693 subsection, the department shall issue a certificate of need to a
694 hospital currently operating Medicaid-certified acute psychiatric

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

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

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

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

760 paragraph, the provisions of Section 41-7-193(1) requiring
761 substantial compliance with the projection of need as reported in
762 the current State Health Plan are waived. The total number of
763 child/adolescent psychiatric residential treatment facility beds
764 that may be authorized under the authority of this paragraph shall
765 be sixty (60) beds. There shall be no prohibition or restrictions
766 on participation in the Medicaid program (Section 43-13-101 et
767 seq.) for the person receiving the certificate of need authorized
768 under this paragraph or for the beds converted pursuant to the
769 authority of that certificate of need.

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

786 (i) The department may issue certificates of need
787 to any person for any purpose described in this subsection,
788 provided that the hospital, psychiatric hospital or chemical
789 dependency hospital does not participate in the Medicaid program
790 (Section 43-13-101 et seq.) at the time of the application for the
791 certificate of need and the owner of the hospital, psychiatric
792 hospital or chemical dependency hospital agrees in writing that

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

821 (ii) The department may issue a certificate of
822 need for the conversion of existing beds in a county hospital in
823 Choctaw County from acute care beds to child/adolescent chemical
824 dependency beds. For purposes of this subparagraph, the
825 provisions of Section 41-7-193(1) requiring substantial compliance

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

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

848 If by January 1, 2002, there has been no significant
849 commencement of construction of the beds authorized under this
850 subparagraph (a)(iii), or no significant action taken to convert
851 existing beds to the beds authorized under this subparagraph, then
852 the certificate of need that was previously issued under this
853 subparagraph shall expire. If the previously issued certificate
854 of need expires, the department may accept applications for
855 issuance of another certificate of need for the beds authorized
856 under this subparagraph, and may issue a certificate of need to
857 authorize the construction, expansion or conversion of the beds
858 authorized under this subparagraph.

859 (iv) The department shall issue a certificate of
860 need to the Region 7 Mental Health/Retardation Commission for the
861 construction or expansion of child/adolescent psychiatric beds or
862 the conversion of other beds to child/adolescent psychiatric beds
863 in any of the counties served by the commission. For purposes of
864 this subparagraph, the provisions of Section 41-7-193(1) requiring
865 substantial compliance with the projection of need as reported in
866 the current State Health Plan is waived. The total number of beds
867 that may be authorized under the authority of this subparagraph
868 shall not exceed twenty (20) beds. There shall be no prohibition
869 or restrictions on participation in the Medicaid program (Section
870 43-13-101 et seq.) for the person receiving the certificate of
871 need authorized under this subparagraph (a)(iv) or for the beds
872 converted pursuant to the authority of that certificate of need.

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

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

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

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

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

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

957 (7) The State Department of Health may issue a certificate
958 of need to any hospital in the state to utilize a portion of its
959 beds for the "swing-bed" concept. Any such hospital must be in
960 conformance with the federal regulations regarding such swing-bed
961 concept at the time it submits its application for a certificate
962 of need to the State Department of Health, except that such
963 hospital may have more licensed beds or a higher average daily
964 census (ADC) than the maximum number specified in federal
965 regulations for participation in the swing-bed program. Any
966 hospital meeting all federal requirements for participation in the
967 swing-bed program which receives such certificate of need shall
968 render services provided under the swing-bed concept to any
969 patient eligible for Medicare (Title XVIII of the Social Security
970 Act) who is certified by a physician to be in need of such
971 services, and no such hospital shall permit any patient who is
972 eligible for both Medicaid and Medicare or eligible only for
973 Medicaid to stay in the swing beds of the hospital for more than
974 thirty (30) days per admission unless the hospital receives prior
975 approval for such patient from the Division of Medicaid, Office of
976 the Governor. Any hospital having more licensed beds or a higher
977 average daily census (ADC) than the maximum number specified in
978 federal regulations for participation in the swing-bed program
979 which receives such certificate of need shall develop a procedure
980 to insure that before a patient is allowed to stay in the swing
981 beds of the hospital, there are no vacant nursing home beds
982 available for that patient located within a fifty-mile radius of
983 the hospital. When any such hospital has a patient staying in the
984 swing beds of the hospital and the hospital receives notice from a
985 nursing home located within such radius that there is a vacant bed
986 available for that patient, the hospital shall transfer the
987 patient to the nursing home within a reasonable time after receipt
988 of the notice. Any hospital which is subject to the requirements
989 of the two (2) preceding sentences of this subsection may be

990 suspended from participation in the swing-bed program for a
991 reasonable period of time by the State Department of Health if the
992 department, after a hearing complying with due process, determines
993 that the hospital has failed to comply with any of those
994 requirements.

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

999 (9) The Department of Health shall not grant approval for or
1000 issue a certificate of need to any person proposing the
1001 establishment of, or expansion of the currently approved territory
1002 of, or the contracting to establish a home office, subunit or
1003 branch office within the space operated as a health care facility
1004 as defined in Section 41-7-173(h)(i) through (viii) by a health
1005 care facility as defined in subparagraph (ix) of Section
1006 41-7-173(h).

1007 (10) Health care facilities owned and/or operated by the
1008 state or its agencies are exempt from the restraints in this
1009 section against issuance of a certificate of need if such addition
1010 or expansion consists of repairing or renovation necessary to
1011 comply with the state licensure law. This exception shall not
1012 apply to the new construction of any building by such state
1013 facility. This exception shall not apply to any health care
1014 facilities owned and/or operated by counties, municipalities,
1015 districts, unincorporated areas, other defined persons, or any
1016 combination thereof.

1017 (11) The new construction, renovation or expansion of or
1018 addition to any health care facility defined in subparagraph (ii)
1019 (psychiatric hospital), subparagraph (iv) (skilled nursing
1020 facility), subparagraph (vi) (intermediate care facility),
1021 subparagraph (viii) (intermediate care facility for the mentally
1022 retarded) and subparagraph (x) (psychiatric residential treatment

1023 facility) of Section 41-7-173(h) which is owned by the State of
1024 Mississippi and under the direction and control of the State
1025 Department of Mental Health, and the addition of new beds or the
1026 conversion of beds from one category to another in any such
1027 defined health care facility which is owned by the State of
1028 Mississippi and under the direction and control of the State
1029 Department of Mental Health, shall not require the issuance of a
1030 certificate of need under Section 41-7-171 et seq.,
1031 notwithstanding any provision in Section 41-7-171 et seq. to the
1032 contrary.

1033 (12) The new construction, renovation or expansion of or
1034 addition to any veterans homes or domiciliaries for eligible
1035 veterans of the State of Mississippi as authorized under Section
1036 35-1-19 shall not require the issuance of a certificate of need,
1037 notwithstanding any provision in Section 41-7-171 et seq. to the
1038 contrary.

1039 (13) The new construction of a nursing facility or nursing
1040 facility beds or the conversion of other beds to nursing facility
1041 beds shall not require the issuance of a certificate of need,
1042 notwithstanding any provision in Section 41-7-171 et seq. to the
1043 contrary, if the conditions of this subsection are met.

1044 (a) Before any construction or conversion may be
1045 undertaken without a certificate of need, the owner of the nursing
1046 facility, in the case of an existing facility, or the applicant to
1047 construct a nursing facility, in the case of new construction,
1048 first must file a written notice of intent and sign a written
1049 agreement with the State Department of Health that the entire
1050 nursing facility will not at any time participate in or have any
1051 beds certified for participation in the Medicaid program (Section
1052 43-13-101 et seq.), will not admit or keep any patients in the
1053 nursing facility who are participating in the Medicaid program,
1054 and will not submit any claim for Medicaid reimbursement for any
1055 patient in the facility. This written agreement by the owner or

1056 applicant shall be a condition of exercising the authority under
1057 this subsection without a certificate of need, and the agreement
1058 shall be fully binding on any subsequent owner of the nursing
1059 facility if the ownership of the facility is transferred at any
1060 time after the agreement is signed. After the written agreement
1061 is signed, the Division of Medicaid and the State Department of
1062 Health shall not certify any beds in the nursing facility for
1063 participation in the Medicaid program. If the nursing facility
1064 violates the terms of the written agreement by participating in
1065 the Medicaid program, having any beds certified for participation
1066 in the Medicaid program, admitting or keeping any patient in the
1067 facility who is participating in the Medicaid program, or
1068 submitting any claim for Medicaid reimbursement for any patient in
1069 the facility, the State Department of Health shall revoke the
1070 license of the nursing facility at the time that the department
1071 determines, after a hearing complying with due process, that the
1072 facility has violated the terms of the written agreement.

1073 (b) For the purposes of this subsection, participation
1074 in the Medicaid program by a nursing facility includes Medicaid
1075 reimbursement of coinsurance and deductibles for recipients who
1076 are qualified Medicare beneficiaries and/or those who are dually
1077 eligible. Any nursing facility exercising the authority under
1078 this subsection may not bill or submit a claim to the Division of
1079 Medicaid for services to qualified Medicare beneficiaries and/or
1080 those who are dually eligible.

1081 (c) The new construction of a nursing facility or
1082 nursing facility beds or the conversion of other beds to nursing
1083 facility beds described in this section must be either a part of a
1084 completely new continuing care retirement community, as described
1085 in the latest edition of the Mississippi State Health Plan, or an
1086 addition to existing personal care and independent living
1087 components, and so that the completed project will be a continuing
1088 care retirement community, containing (i) independent living

1089 accommodations, (ii) personal care beds, and (iii) the nursing
1090 home facility beds. The three (3) components must be located on a
1091 single site and be operated as one (1) inseparable facility. The
1092 nursing facility component must contain a minimum of thirty (30)
1093 beds. Any nursing facility beds authorized by this section will
1094 not be counted against the bed need set forth in the State Health
1095 Plan, as identified in Section 41-7-171, et seq.

1096 This subsection (13) shall stand repealed from and after July
1097 1, 2005.

1098 (14) The State Department of Health shall issue a
1099 certificate of need to any hospital which is currently licensed
1100 for two hundred fifty (250) or more acute care beds and is located
1101 in any general hospital service area not having a comprehensive
1102 cancer center, for the establishment and equipping of such a
1103 center which provides facilities and services for outpatient
1104 radiation oncology therapy, outpatient medical oncology therapy,
1105 and appropriate support services including the provision of
1106 radiation therapy services. The provision of Section 41-7-193(1)
1107 regarding substantial compliance with the projection of need as
1108 reported in the current State Health Plan is waived for the
1109 purpose of this subsection.

1110 (15) The State Department of Health may authorize the
1111 transfer of hospital beds, not to exceed sixty (60) beds, from the
1112 North Panola Community Hospital to the South Panola Community
1113 Hospital. The authorization for the transfer of those beds shall
1114 be exempt from the certificate of need review process.

1115 (16) Nothing in this section or in any other provision of
1116 Section 41-7-171 et seq. shall prevent any nursing facility from
1117 designating an appropriate number of existing beds in the facility
1118 as beds for providing care exclusively to patients with
1119 Alzheimer's disease.

1120 SECTION 2. This act shall take effect and be in force from
1121 and after July 1, 2001.