

By: Representative Holland

To: Public Health and  
Welfare; Appropriations

HOUSE BILL NO. 566

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE REQUIREMENT OF OBTAINING A CERTIFICATE OF NEED  
3 BEFORE EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY SERVICES MAY BE  
4 PROVIDED; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the  
9 following activities without obtaining the required certificate of  
10 need:

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

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

20 (c) A change over a period of two (2) years' time, as  
21 established by the State Department of Health, in existing bed  
22 complement through the addition of more than ten (10) beds or more  
23 than ten percent (10%) of the total bed capacity of a designated  
24 licensed category or subcategory of any health care facility,  
25 whichever is less, from one physical facility or site to another;  
26 the conversion over a period of two (2) years' time, as  
27 established by the State Department of Health, of existing bed  
28 complement of more than ten (10) beds or more than ten percent



29 (10%) of the total bed capacity of a designated licensed category  
30 or subcategory of any such health care facility, whichever is  
31 less; or the alteration, modernizing or refurbishing of any unit  
32 or department wherein such beds may be located; provided, however,  
33 that from and after July 1, 1994, no health care facility shall be  
34 authorized to add any beds or convert any beds to another category  
35 of beds without a certificate of need under the authority of  
36 subsection (1)(c) of this section unless there is a projected need  
37 for such beds in the planning district in which the facility is  
38 located, as reported in the most current State Health Plan;

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

- 43 (i) Open heart surgery services;
- 44 (ii) Cardiac catheterization services;
- 45 (iii) Comprehensive inpatient rehabilitation  
46 services;
- 47 (iv) Licensed psychiatric services;
- 48 (v) Licensed chemical dependency services;
- 49 (vi) Radiation therapy services;
- 50 (vii) Diagnostic imaging services of an invasive  
51 nature, i.e. invasive digital angiography;
- 52 (viii) Nursing home care as defined in  
53 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 54 (ix) Home health services;
- 55 (x) Swing-bed services;
- 56 (xi) Ambulatory surgical services;
- 57 (xii) Magnetic resonance imaging services;

58 \* \* \*

- 59 (xiii) Long-term care hospital services;
- 60 (xiv) Positron Emission Tomography (PET) Services;



61           (e) The relocation of one or more health services from  
62 one physical facility or site to another physical facility or  
63 site, unless such relocation, which does not involve a capital  
64 expenditure by or on behalf of a health care facility, (i) is to a  
65 physical facility or site within one thousand three hundred twenty  
66 (1,320) feet from the main entrance of the health care facility  
67 where the health care service is located, or (ii) is the result of  
68 an order of a court of appropriate jurisdiction or a result of  
69 pending litigation in such court, or by order of the State  
70 Department of Health, or by order of any other agency or legal  
71 entity of the state, the federal government, or any political  
72 subdivision of either, whose order is also approved by the State  
73 Department of Health;

74           (f) The acquisition or otherwise control of any major  
75 medical equipment for the provision of medical services; provided,  
76 however, (i) the acquisition of any major medical equipment used  
77 only for research purposes, and (ii) the acquisition of major  
78 medical equipment to replace medical equipment for which a  
79 facility is already providing medical services and for which the  
80 State Department of Health has been notified before the date of  
81 such acquisition shall be exempt from this paragraph; an  
82 acquisition for less than fair market value must be reviewed, if  
83 the acquisition at fair market value would be subject to review;

84           (g) Changes of ownership of existing health care  
85 facilities in which a notice of intent is not filed with the State  
86 Department of Health at least thirty (30) days prior to the date  
87 such change of ownership occurs, or a change in services or bed  
88 capacity as prescribed in paragraph (c) or (d) of this subsection  
89 as a result of the change of ownership; an acquisition for less  
90 than fair market value must be reviewed, if the acquisition at  
91 fair market value would be subject to review;

92           (h) The change of ownership of any health care facility  
93 defined in subparagraphs (iv), (vi) and (viii) of Section



94 41-7-173(h), in which a notice of intent as described in paragraph  
95 (g) has not been filed and if the Executive Director, Division of  
96 Medicaid, Office of the Governor, has not certified in writing  
97 that there will be no increase in allowable costs to Medicaid from  
98 revaluation of the assets or from increased interest and  
99 depreciation as a result of the proposed change of ownership;

100 (i) Any activity described in paragraphs (a) through  
101 (h) if undertaken by any person if that same activity would  
102 require certificate of need approval if undertaken by a health  
103 care facility;

104 (j) Any capital expenditure or deferred capital  
105 expenditure by or on behalf of a health care facility not covered  
106 by paragraphs (a) through (h);

107 (k) The contracting of a health care facility as  
108 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
109 to establish a home office, subunit, or branch office in the space  
110 operated as a health care facility through a formal arrangement  
111 with an existing health care facility as defined in subparagraph  
112 (ix) of Section 41-7-173(h).

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

120 (a) The department may issue a certificate of need to  
121 any person proposing the new construction of any health care  
122 facility defined in subparagraphs (iv) and (vi) of Section  
123 41-7-173(h) as part of a life care retirement facility, in any  
124 county bordering on the Gulf of Mexico in which is located a  
125 National Aeronautics and Space Administration facility, not to  
126 exceed forty (40) beds. From and after July 1, 1999, there shall



127 be no prohibition or restrictions on participation in the Medicaid  
128 program (Section 43-13-101 et seq.) for the beds in the health  
129 care facility that were authorized under this paragraph (a).

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

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



160 complying with due process, that the facility has failed to comply  
161 with any of the conditions upon which the certificate of need was  
162 issued, as provided in this paragraph and in the written agreement  
163 by the recipient of the certificate of need. The total number of  
164 beds that may be authorized under the authority of this paragraph  
165 (c) shall not exceed sixty (60) beds.

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

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

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

191 (g) The State Department of Health may issue a  
192 certificate of need for the construction or expansion of nursing



193 facility beds or the conversion of other beds to nursing facility  
194 beds in either Hinds, Madison or Rankin Counties, not to exceed  
195 sixty (60) beds. From and after July 1, 1999, there shall be no  
196 prohibition or restrictions on participation in the Medicaid  
197 program (Section 43-13-101 et seq.) for the beds in the nursing  
198 facility that were authorized under this paragraph (g).

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

207 (i) The department may issue a certificate of need for  
208 the new construction of a skilled nursing facility in Leake  
209 County, provided that the recipient of the certificate of need  
210 agrees in writing that the skilled nursing facility will not at  
211 any time participate in the Medicaid program (Section 43-13-101 et  
212 seq.) or admit or keep any patients in the skilled nursing  
213 facility who are participating in the Medicaid program. This  
214 written agreement by the recipient of the certificate of need  
215 shall be fully binding on any subsequent owner of the skilled  
216 nursing facility, if the ownership of the facility is transferred  
217 at any time after the issuance of the certificate of need.  
218 Agreement that the skilled nursing facility will not participate  
219 in the Medicaid program shall be a condition of the issuance of a  
220 certificate of need to any person under this paragraph (i), and if  
221 such skilled nursing facility at any time after the issuance of  
222 the certificate of need, regardless of the ownership of the  
223 facility, participates in the Medicaid program or admits or keeps  
224 any patients in the facility who are participating in the Medicaid  
225 program, the State Department of Health shall revoke the



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

246 (j) The department may issue certificates of need to  
247 allow any existing freestanding long-term care facility in  
248 Tishomingo County and Hancock County that on July 1, 1995, is  
249 licensed with fewer than sixty (60) beds. For the purposes of  
250 this paragraph (j), the provision of Section 41-7-193(1) requiring  
251 substantial compliance with the projection of need as reported in  
252 the current State Health Plan is waived. From and after July 1,  
253 1999, there shall be no prohibition or restrictions on  
254 participation in the Medicaid program (Section 43-13-101 et seq.)  
255 for the beds in the long-term care facilities that were authorized  
256 under this paragraph (j).

257 (k) The department may issue a certificate of need for  
258 the construction of a nursing facility at a continuing care





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

287 (1) Provided that funds are specifically appropriated  
288 therefor by the Legislature, the department may issue a  
289 certificate of need to a rehabilitation hospital in Hinds County  
290 for the construction of a sixty-bed long-term care nursing  
291 facility dedicated to the care and treatment of persons with



292 severe disabilities including persons with spinal cord and  
293 closed-head injuries and ventilator-dependent patients. The  
294 provision of Section 41-7-193(1) regarding substantial compliance  
295 with projection of need as reported in the current State Health  
296 Plan is hereby waived for the purpose of this paragraph.

297 (m) The State Department of Health may issue a  
298 certificate of need to a county-owned hospital in the Second  
299 Judicial District of Panola County for the conversion of not more  
300 than seventy-two (72) hospital beds to nursing facility beds,  
301 provided that the recipient of the certificate of need agrees in  
302 writing that none of the beds at the nursing facility will be  
303 certified for participation in the Medicaid program (Section  
304 43-13-101 et seq.), and that no claim will be submitted for  
305 Medicaid reimbursement in the nursing facility in any day or for  
306 any patient in the nursing facility. This written agreement by  
307 the recipient of the certificate of need shall be a condition of  
308 the issuance of the certificate of need under this paragraph, and  
309 the agreement shall be fully binding on any subsequent owner of  
310 the nursing facility if the ownership of the nursing facility is  
311 transferred at any time after the issuance of the certificate of  
312 need. After this written agreement is executed, the Division of  
313 Medicaid and the State Department of Health shall not certify any  
314 of the beds in the nursing facility for participation in the  
315 Medicaid program. If the nursing facility violates the terms of  
316 the written agreement by admitting or keeping in the nursing  
317 facility on a regular or continuing basis any patients who are  
318 participating in the Medicaid program, the State Department of  
319 Health shall revoke the license of the nursing facility, at the  
320 time that the department determines, after a hearing complying  
321 with due process, that the nursing facility has violated the  
322 condition upon which the certificate of need was issued, as  
323 provided in this paragraph and in the written agreement. If the  
324 certificate of need authorized under this paragraph is not issued



325 within twelve (12) months after July 1, 2001, the department shall  
326 deny the application for the certificate of need and shall not  
327 issue the certificate of need at any time after the twelve-month  
328 period, unless the issuance is contested. If the certificate of  
329 need is issued and substantial construction of the nursing  
330 facility beds has not commenced within eighteen (18) months after  
331 July 1, 2001, the State Department of Health, after a hearing  
332 complying with due process, shall revoke the certificate of need  
333 if it is still outstanding, and the department shall not issue a  
334 license for the nursing facility at any time after the  
335 eighteen-month period. Provided, however, that if the issuance of  
336 the certificate of need is contested, the department shall require  
337 substantial construction of the nursing facility beds within six  
338 (6) months after final adjudication on the issuance of the  
339 certificate of need.

340 (n) The department may issue a certificate of need for  
341 the new construction, addition or conversion of skilled nursing  
342 facility beds in Madison County, provided that the recipient of  
343 the certificate of need agrees in writing that the skilled nursing  
344 facility will not at any time participate in the Medicaid program  
345 (Section 43-13-101 et seq.) or admit or keep any patients in the  
346 skilled nursing facility who are participating in the Medicaid  
347 program. This written agreement by the recipient of the  
348 certificate of need shall be fully binding on any subsequent owner  
349 of the skilled nursing facility, if the ownership of the facility  
350 is transferred at any time after the issuance of the certificate  
351 of need. Agreement that the skilled nursing facility will not  
352 participate in the Medicaid program shall be a condition of the  
353 issuance of a certificate of need to any person under this  
354 paragraph (n), and if such skilled nursing facility at any time  
355 after the issuance of the certificate of need, regardless of the  
356 ownership of the facility, participates in the Medicaid program or  
357 admits or keeps any patients in the facility who are participating



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

384 (o) The department may issue a certificate of need for  
385 the new construction, addition or conversion of skilled nursing  
386 facility beds in Leake County, provided that the recipient of the  
387 certificate of need agrees in writing that the skilled nursing  
388 facility will not at any time participate in the Medicaid program  
389 (Section 43-13-101 et seq.) or admit or keep any patients in the  
390 skilled nursing facility who are participating in the Medicaid



391 program. This written agreement by the recipient of the  
392 certificate of need shall be fully binding on any subsequent owner  
393 of the skilled nursing facility, if the ownership of the facility  
394 is transferred at any time after the issuance of the certificate  
395 of need. Agreement that the skilled nursing facility will not  
396 participate in the Medicaid program shall be a condition of the  
397 issuance of a certificate of need to any person under this  
398 paragraph (o), and if such skilled nursing facility at any time  
399 after the issuance of the certificate of need, regardless of the  
400 ownership of the facility, participates in the Medicaid program or  
401 admits or keeps any patients in the facility who are participating  
402 in the Medicaid program, the State Department of Health shall  
403 revoke the certificate of need, if it is still outstanding, and  
404 shall deny or revoke the license of the skilled nursing facility,  
405 at the time that the department determines, after a hearing  
406 complying with due process, that the facility has failed to comply  
407 with any of the conditions upon which the certificate of need was  
408 issued, as provided in this paragraph and in the written agreement  
409 by the recipient of the certificate of need. The total number of  
410 nursing facility beds that may be authorized by any certificate of  
411 need issued under this paragraph (o) shall not exceed sixty (60)  
412 beds. If the certificate of need authorized under this paragraph  
413 is not issued within twelve (12) months after July 1, 2001, the  
414 department shall deny the application for the certificate of need  
415 and shall not issue the certificate of need at any time after the  
416 twelve-month period, unless the issuance is contested. If the  
417 certificate of need is issued and substantial construction of the  
418 nursing facility beds has not commenced within eighteen (18)  
419 months after the effective date of July 1, 2001, the State  
420 Department of Health, after a hearing complying with due process,  
421 shall revoke the certificate of need if it is still outstanding,  
422 and the department shall not issue a license for the nursing  
423 facility at any time after the eighteen-month period. Provided,



424 however, that if the issuance of the certificate of need is  
425 contested, the department shall require substantial construction  
426 of the nursing facility beds within six (6) months after final  
427 adjudication on the issuance of the certificate of need.

428 (p) The department may issue a certificate of need for  
429 the construction of a municipally-owned nursing facility within  
430 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
431 beds, provided that the recipient of the certificate of need  
432 agrees in writing that the skilled nursing facility will not at  
433 any time participate in the Medicaid program (Section 43-13-101 et  
434 seq.) or admit or keep any patients in the skilled nursing  
435 facility who are participating in the Medicaid program. This  
436 written agreement by the recipient of the certificate of need  
437 shall be fully binding on any subsequent owner of the skilled  
438 nursing facility, if the ownership of the facility is transferred  
439 at any time after the issuance of the certificate of need.

440 Agreement that the skilled nursing facility will not participate  
441 in the Medicaid program shall be a condition of the issuance of a  
442 certificate of need to any person under this paragraph (p), and if  
443 such skilled nursing facility at any time after the issuance of  
444 the certificate of need, regardless of the ownership of the  
445 facility, participates in the Medicaid program or admits or keeps  
446 any patients in the facility who are participating in the Medicaid  
447 program, the State Department of Health shall revoke the  
448 certificate of need, if it is still outstanding, and shall deny or  
449 revoke the license of the skilled nursing facility, at the time  
450 that the department determines, after a hearing complying with due  
451 process, that the facility has failed to comply with any of the  
452 conditions upon which the certificate of need was issued, as  
453 provided in this paragraph and in the written agreement by the  
454 recipient of the certificate of need. The provision of Section  
455 43-7-193(1) regarding substantial compliance of the projection of  
456 need as reported in the current State Health Plan is waived for



457 the purposes of this paragraph. If the certificate of need  
458 authorized under this paragraph is not issued within twelve (12)  
459 months after July 1, 1998, the department shall deny the  
460 application for the certificate of need and shall not issue the  
461 certificate of need at any time after the twelve-month period,  
462 unless the issuance is contested. If the certificate of need is  
463 issued and substantial construction of the nursing facility beds  
464 has not commenced within eighteen (18) months after July 1, 1998,  
465 the State Department of Health, after a hearing complying with due  
466 process, shall revoke the certificate of need if it is still  
467 outstanding, and the department shall not issue a license for the  
468 nursing facility at any time after the eighteen-month period.  
469 Provided, however, that if the issuance of the certificate of need  
470 is contested, the department shall require substantial  
471 construction of the nursing facility beds within six (6) months  
472 after final adjudication on the issuance of the certificate of  
473 need.

474 (q) (i) Beginning on July 1, 1999, the State  
475 Department of Health shall issue certificates of need during each  
476 of the next four (4) fiscal years for the construction or  
477 expansion of nursing facility beds or the conversion of other beds  
478 to nursing facility beds in each county in the state having a need  
479 for fifty (50) or more additional nursing facility beds, as shown  
480 in the fiscal year 1999 State Health Plan, in the manner provided  
481 in this paragraph (q). The total number of nursing facility beds  
482 that may be authorized by any certificate of need authorized under  
483 this paragraph (q) shall not exceed sixty (60) beds.

484 (ii) Subject to the provisions of subparagraph  
485 (v), during each of the next four (4) fiscal years, the department  
486 shall issue six (6) certificates of need for new nursing facility  
487 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
488 (1) certificate of need shall be issued for new nursing facility  
489 beds in the county in each of the four (4) Long-Term Care Planning



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

507 (iii) Subject to the provisions of subparagraph  
508 (v), the certificate of need issued under subparagraph (ii) for  
509 nursing facility beds in each Long-Term Care Planning District  
510 during each fiscal year shall first be available for nursing  
511 facility beds in the county in the district having the highest  
512 need for those beds, as shown in the fiscal year 1999 State Health  
513 Plan. If there are no applications for a certificate of need for  
514 nursing facility beds in the county having the highest need for  
515 those beds by the date specified by the department, then the  
516 certificate of need shall be available for nursing facility beds  
517 in other counties in the district in descending order of the need  
518 for those beds, from the county with the second highest need to  
519 the county with the lowest need, until an application is received  
520 for nursing facility beds in an eligible county in the district.

521 (iv) Subject to the provisions of subparagraph  
522 (v), the certificate of need issued under subparagraph (ii) for





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

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



556 (vi) If more than one (1) application is made for  
557 a certificate of need for nursing home facility beds available  
558 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
559 County, and one (1) of the applicants is a county-owned hospital  
560 located in the county where the nursing facility beds are  
561 available, the department shall give priority to the county-owned  
562 hospital in granting the certificate of need if the following  
563 conditions are met:

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

567 2. The county-owned hospital's qualifications  
568 for the certificate of need, as shown in its application and as  
569 determined by the department, are at least equal to the  
570 qualifications of the other applicants for the certificate of  
571 need.

572 (r) (i) Beginning on July 1, 1999, the State  
573 Department of Health shall issue certificates of need during each  
574 of the next two (2) fiscal years for the construction or expansion  
575 of nursing facility beds or the conversion of other beds to  
576 nursing facility beds in each of the four (4) Long-Term Care  
577 Planning Districts designated in the fiscal year 1999 State Health  
578 Plan, to provide care exclusively to patients with Alzheimer's  
579 disease.

580 (ii) Not more than twenty (20) beds may be  
581 authorized by any certificate of need issued under this paragraph  
582 (r), and not more than a total of sixty (60) beds may be  
583 authorized in any Long-Term Care Planning District by all  
584 certificates of need issued under this paragraph (r). However,  
585 the total number of beds that may be authorized by all  
586 certificates of need issued under this paragraph (r) during any  
587 fiscal year shall not exceed one hundred twenty (120) beds, and  
588 the total number of beds that may be authorized in any Long-Term



589 Care Planning District during any fiscal year shall not exceed  
590 forty (40) beds. Of the certificates of need that are issued for  
591 each Long-Term Care Planning District during the next two (2)  
592 fiscal years, at least one (1) shall be issued for beds in the  
593 northern part of the district, at least one (1) shall be issued  
594 for beds in the central part of the district, and at least one (1)  
595 shall be issued for beds in the southern part of the district.

596 (iii) The State Department of Health, in  
597 consultation with the Department of Mental Health and the Division  
598 of Medicaid, shall develop and prescribe the staffing levels,  
599 space requirements and other standards and requirements that must  
600 be met with regard to the nursing facility beds authorized under  
601 this paragraph (r) to provide care exclusively to patients with  
602 Alzheimer's disease.

603 (3) The State Department of Health may grant approval for  
604 and issue certificates of need to any person proposing the new  
605 construction of, addition to, conversion of beds of or expansion  
606 of any health care facility defined in subparagraph (x)  
607 (psychiatric residential treatment facility) of Section  
608 41-7-173(h). The total number of beds which may be authorized by  
609 such certificates of need shall not exceed three hundred  
610 thirty-four (334) beds for the entire state.

611 (a) Of the total number of beds authorized under this  
612 subsection, the department shall issue a certificate of need to a  
613 privately owned psychiatric residential treatment facility in  
614 Simpson County for the conversion of sixteen (16) intermediate  
615 care facility for the mentally retarded (ICF-MR) beds to  
616 psychiatric residential treatment facility beds, provided that  
617 facility agrees in writing that the facility shall give priority  
618 for the use of those sixteen (16) beds to Mississippi residents  
619 who are presently being treated in out-of-state facilities.

620 (b) Of the total number of beds authorized under this  
621 subsection, the department may issue a certificate or certificates



622 of need for the construction or expansion of psychiatric  
623 residential treatment facility beds or the conversion of other  
624 beds to psychiatric residential treatment facility beds in Warren  
625 County, not to exceed sixty (60) psychiatric residential treatment  
626 facility beds, provided that the facility agrees in writing that  
627 no more than thirty (30) of the beds at the psychiatric  
628 residential treatment facility will be certified for participation  
629 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
630 any patients other than those who are participating only in the  
631 Medicaid program of another state, and that no claim will be  
632 submitted to the Division of Medicaid for Medicaid reimbursement  
633 for more than thirty (30) patients in the psychiatric residential  
634 treatment facility in any day or for any patient in the  
635 psychiatric residential treatment facility who is in a bed that is  
636 not Medicaid-certified. This written agreement by the recipient  
637 of the certificate of need shall be a condition of the issuance of  
638 the certificate of need under this paragraph, and the agreement  
639 shall be fully binding on any subsequent owner of the psychiatric  
640 residential treatment facility if the ownership of the facility is  
641 transferred at any time after the issuance of the certificate of  
642 need. After this written agreement is executed, the Division of  
643 Medicaid and the State Department of Health shall not certify more  
644 than thirty (30) of the beds in the psychiatric residential  
645 treatment facility for participation in the Medicaid program for  
646 the use of any patients other than those who are participating  
647 only in the Medicaid program of another state. If the psychiatric  
648 residential treatment facility violates the terms of the written  
649 agreement by admitting or keeping in the facility on a regular or  
650 continuing basis more than thirty (30) patients who are  
651 participating in the Mississippi Medicaid program, the State  
652 Department of Health shall revoke the license of the facility, at  
653 the time that the department determines, after a hearing complying  
654 with due process, that the facility has violated the condition



655 upon which the certificate of need was issued, as provided in this  
656 paragraph and in the written agreement.

657         If by January 1, 2002, there has been no significant  
658 commencement of construction of the beds authorized under this  
659 paragraph (b), or no significant action taken to convert existing  
660 beds to the beds authorized under this paragraph, then the  
661 certificate of need that was previously issued under this  
662 paragraph shall expire. If the previously issued certificate of  
663 need expires, the department may accept applications for issuance  
664 of another certificate of need for the beds authorized under this  
665 paragraph, and may issue a certificate of need to authorize the  
666 construction, expansion or conversion of the beds authorized under  
667 this paragraph.

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



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

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

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

719 (f) The department shall issue a certificate of need to  
720 a one-hundred-thirty-four-bed specialty hospital located on



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

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



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

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





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

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

810 (iii) The department may issue a certificate or  
811 certificates of need for the construction or expansion of  
812 child/adolescent psychiatric beds or the conversion of other beds  
813 to child/adolescent psychiatric beds in Warren County. For  
814 purposes of this subparagraph, the provisions of Section  
815 41-7-193(1) requiring substantial compliance with the projection  
816 of need as reported in the current State Health Plan are waived.  
817 The total number of beds that may be authorized under the  
818 authority of this subparagraph shall not exceed twenty (20) beds.  
819 There shall be no prohibition or restrictions on participation in



820 the Medicaid program (Section 43-13-101 et seq.) for the person  
821 receiving the certificate of need authorized under this  
822 subparagraph (a)(iii) or for the beds converted pursuant to the  
823 authority of that certificate of need.

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

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

849 (v) The department may issue a certificate of need  
850 to any county hospital located in Leflore County for the  
851 construction or expansion of adult psychiatric beds or the  
852 conversion of other beds to adult psychiatric beds, not to exceed



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

877 (vi) The department may issue a certificate or  
878 certificates of need for the expansion of child psychiatric beds  
879 or the conversion of other beds to child psychiatric beds at the  
880 University of Mississippi Medical Center. For purposes of this  
881 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
882 requiring substantial compliance with the projection of need as  
883 reported in the current State Health Plan is waived. The total  
884 number of beds that may be authorized under the authority of this  
885 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There



886 shall be no prohibition or restrictions on participation in the  
887 Medicaid program (Section 43-13-101 et seq.) for the hospital  
888 receiving the certificate of need authorized under this  
889 subparagraph (a)(vi) or for the beds converted pursuant to the  
890 authority of that certificate of need.

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

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

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



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

933 (7) The State Department of Health may issue a certificate  
934 of need to any hospital in the state to utilize a portion of its  
935 beds for the "swing-bed" concept. Any such hospital must be in  
936 conformance with the federal regulations regarding such swing-bed  
937 concept at the time it submits its application for a certificate  
938 of need to the State Department of Health, except that such  
939 hospital may have more licensed beds or a higher average daily  
940 census (ADC) than the maximum number specified in federal  
941 regulations for participation in the swing-bed program. Any  
942 hospital meeting all federal requirements for participation in the  
943 swing-bed program which receives such certificate of need shall  
944 render services provided under the swing-bed concept to any  
945 patient eligible for Medicare (Title XVIII of the Social Security  
946 Act) who is certified by a physician to be in need of such  
947 services, and no such hospital shall permit any patient who is  
948 eligible for both Medicaid and Medicare or eligible only for  
949 Medicaid to stay in the swing beds of the hospital for more than  
950 thirty (30) days per admission unless the hospital receives prior  
951 approval for such patient from the Division of Medicaid, Office of



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

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

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

983 (10) Health care facilities owned and/or operated by the  
984 state or its agencies are exempt from the restraints in this



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

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

1009 (12) The new construction, renovation or expansion of or  
1010 addition to any veterans homes or domiciliaries for eligible  
1011 veterans of the State of Mississippi as authorized under Section  
1012 35-1-19 shall not require the issuance of a certificate of need,  
1013 notwithstanding any provision in Section 41-7-171 et seq. to the  
1014 contrary.

1015 (13) The new construction of a nursing facility or nursing  
1016 facility beds or the conversion of other beds to nursing facility  
1017 beds shall not require the issuance of a certificate of need,



1018 notwithstanding any provision in Section 41-7-171 et seq. to the  
1019 contrary, if the conditions of this subsection are met.

1020           (a) Before any construction or conversion may be  
1021 undertaken without a certificate of need, the owner of the nursing  
1022 facility, in the case of an existing facility, or the applicant to  
1023 construct a nursing facility, in the case of new construction,  
1024 first must file a written notice of intent and sign a written  
1025 agreement with the State Department of Health that the entire  
1026 nursing facility will not at any time participate in or have any  
1027 beds certified for participation in the Medicaid program (Section  
1028 43-13-101 et seq.), will not admit or keep any patients in the  
1029 nursing facility who are participating in the Medicaid program,  
1030 and will not submit any claim for Medicaid reimbursement for any  
1031 patient in the facility. This written agreement by the owner or  
1032 applicant shall be a condition of exercising the authority under  
1033 this subsection without a certificate of need, and the agreement  
1034 shall be fully binding on any subsequent owner of the nursing  
1035 facility if the ownership of the facility is transferred at any  
1036 time after the agreement is signed. After the written agreement  
1037 is signed, the Division of Medicaid and the State Department of  
1038 Health shall not certify any beds in the nursing facility for  
1039 participation in the Medicaid program. If the nursing facility  
1040 violates the terms of the written agreement by participating in  
1041 the Medicaid program, having any beds certified for participation  
1042 in the Medicaid program, admitting or keeping any patient in the  
1043 facility who is participating in the Medicaid program, or  
1044 submitting any claim for Medicaid reimbursement for any patient in  
1045 the facility, the State Department of Health shall revoke the  
1046 license of the nursing facility at the time that the department  
1047 determines, after a hearing complying with due process, that the  
1048 facility has violated the terms of the written agreement.

1049           (b) For the purposes of this subsection, participation  
1050 in the Medicaid program by a nursing facility includes Medicaid





1051 reimbursement of coinsurance and deductibles for recipients who  
1052 are qualified Medicare beneficiaries and/or those who are dually  
1053 eligible. Any nursing facility exercising the authority under  
1054 this subsection may not bill or submit a claim to the Division of  
1055 Medicaid for services to qualified Medicare beneficiaries and/or  
1056 those who are dually eligible.

1057 (c) The new construction of a nursing facility or  
1058 nursing facility beds or the conversion of other beds to nursing  
1059 facility beds described in this section must be either a part of a  
1060 completely new continuing care retirement community, as described  
1061 in the latest edition of the Mississippi State Health Plan, or an  
1062 addition to existing personal care and independent living  
1063 components, and so that the completed project will be a continuing  
1064 care retirement community, containing (i) independent living  
1065 accommodations, (ii) personal care beds, and (iii) the nursing  
1066 home facility beds. The three (3) components must be located on a  
1067 single site and be operated as one (1) inseparable facility. The  
1068 nursing facility component must contain a minimum of thirty (30)  
1069 beds. Any nursing facility beds authorized by this section will  
1070 not be counted against the bed need set forth in the State Health  
1071 Plan, as identified in Section 41-7-171, et seq.

1072 This subsection (13) shall stand repealed from and after July  
1073 1, 2005.

1074 (14) The State Department of Health shall issue a  
1075 certificate of need to any hospital which is currently licensed  
1076 for two hundred fifty (250) or more acute care beds and is located  
1077 in any general hospital service area not having a comprehensive  
1078 cancer center, for the establishment and equipping of such a  
1079 center which provides facilities and services for outpatient  
1080 radiation oncology therapy, outpatient medical oncology therapy,  
1081 and appropriate support services including the provision of  
1082 radiation therapy services. The provision of Section 41-7-193(1)  
1083 regarding substantial compliance with the projection of need as



1084 reported in the current State Health Plan is waived for the  
1085 purpose of this subsection.

1086 (15) The State Department of Health may authorize the  
1087 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1088 North Panola Community Hospital to the South Panola Community  
1089 Hospital. The authorization for the transfer of those beds shall  
1090 be exempt from the certificate of need review process.

1091 (16) Nothing in this section or in any other provision of  
1092 Section 41-7-171 et seq. shall prevent any nursing facility from  
1093 designating an appropriate number of existing beds in the facility  
1094 as beds for providing care exclusively to patients with  
1095 Alzheimer's disease.

1096 **SECTION 2.** This act shall take effect and be in force from  
1097 and after July 1, 2002.

