

By: Representative Woods

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 1370

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ALL OF THE BEDS IN A PSYCHIATRIC RESIDENTIAL
3 TREATMENT FACILITY AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED
4 TO A HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID; TO
5 PROVIDE THAT UP TO 36 ACUTE CHILD/ADOLESCENT PSYCHIATRIC BEDS IN A
6 HOSPITAL IN DESOTO COUNTY MAY BE CERTIFIED TO PARTICIPATE IN
7 MEDICAID; AND FOR RELATED PURPOSES.

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

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

11 41-7-191. (1) No person shall engage in any of the
12 following activities without obtaining the required certificate of
13 need:

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

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

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



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

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

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



63 (xiv) Long-term care hospital services;

64 (xv) Positron Emission Tomography (PET) services;

65 (e) The relocation of one or more health services from

66 one physical facility or site to another physical facility or

67 site, unless such relocation, which does not involve a capital

68 expenditure by or on behalf of a health care facility, (i) is to a

69 physical facility or site within one thousand three hundred twenty

70 (1,320) feet from the main entrance of the health care facility

71 where the health care service is located, or (ii) is the result of

72 an order of a court of appropriate jurisdiction or a result of

73 pending litigation in such court, or by order of the State

74 Department of Health, or by order of any other agency or legal

75 entity of the state, the federal government, or any political

76 subdivision of either, whose order is also approved by the State

77 Department of Health;

78 (f) The acquisition or otherwise control of any major

79 medical equipment for the provision of medical services; provided,

80 however, (i) the acquisition of any major medical equipment used

81 only for research purposes, and (ii) the acquisition of major

82 medical equipment to replace medical equipment for which a

83 facility is already providing medical services and for which the

84 State Department of Health has been notified before the date of

85 such acquisition shall be exempt from this paragraph; an

86 acquisition for less than fair market value must be reviewed, if

87 the acquisition at fair market value would be subject to review;

88 (g) Changes of ownership of existing health care

89 facilities in which a notice of intent is not filed with the State

90 Department of Health at least thirty (30) days prior to the date

91 such change of ownership occurs, or a change in services or bed

92 capacity as prescribed in paragraph (c) or (d) of this subsection

93 as a result of the change of ownership; an acquisition for less

94 than fair market value must be reviewed, if the acquisition at

95 fair market value would be subject to review;



96 (h) The change of ownership of any health care facility
97 defined in subparagraphs (iv), (vi) and (viii) of Section
98 41-7-173(h), in which a notice of intent as described in paragraph
99 (g) has not been filed and if the Executive Director, Division of
100 Medicaid, Office of the Governor, has not certified in writing
101 that there will be no increase in allowable costs to Medicaid from
102 revaluation of the assets or from increased interest and
103 depreciation as a result of the proposed change of ownership;

104 (i) Any activity described in paragraphs (a) through
105 (h) if undertaken by any person if that same activity would
106 require certificate of need approval if undertaken by a health
107 care facility;

108 (j) Any capital expenditure or deferred capital
109 expenditure by or on behalf of a health care facility not covered
110 by paragraphs (a) through (h);

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

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

124 (a) The department may issue a certificate of need to
125 any person proposing the new construction of any health care
126 facility defined in subparagraphs (iv) and (vi) of Section
127 41-7-173(h) as part of a life care retirement facility, in any
128 county bordering on the Gulf of Mexico in which is located a



129 National Aeronautics and Space Administration facility, not to
130 exceed forty (40) beds. From and after July 1, 1999, there shall
131 be no prohibition or restrictions on participation in the Medicaid
132 program (Section 43-13-101 et seq.) for the beds in the health
133 care facility that were authorized under this paragraph (a).

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

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



162 shall deny or revoke the license of the skilled nursing facility,
163 at the time that the department determines, after a hearing
164 complying with due process, that the facility has failed to comply
165 with any of the conditions upon which the certificate of need was
166 issued, as provided in this paragraph and in the written agreement
167 by the recipient of the certificate of need. The total number of
168 beds that may be authorized under the authority of this paragraph
169 (c) shall not exceed sixty (60) beds.

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

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

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



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

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

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



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

250 (j) The department may issue certificates of need to
251 allow any existing freestanding long-term care facility in
252 Tishomingo County and Hancock County that on July 1, 1995, is
253 licensed with fewer than sixty (60) beds. For the purposes of
254 this paragraph (j), the provision of Section 41-7-193(1) requiring
255 substantial compliance with the projection of need as reported in
256 the current State Health Plan is waived. From and after July 1,
257 1999, there shall be no prohibition or restrictions on
258 participation in the Medicaid program (Section 43-13-101 et seq.)
259 for the beds in the long-term care facilities that were authorized
260 under this paragraph (j).



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

291 (l) Provided that funds are specifically appropriated
292 therefor by the Legislature, the department may issue a
293 certificate of need to a rehabilitation hospital in Hinds County



294 for the construction of a sixty-bed long-term care nursing
295 facility dedicated to the care and treatment of persons with
296 severe disabilities including persons with spinal cord and
297 closed-head injuries and ventilator-dependent patients. The
298 provision of Section 41-7-193(1) regarding substantial compliance
299 with projection of need as reported in the current State Health
300 Plan is hereby waived for the purpose of this paragraph.

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



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

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



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

388 (o) The department may issue a certificate of need for
389 the new construction, addition or conversion of skilled nursing
390 facility beds in Leake County, provided that the recipient of the
391 certificate of need agrees in writing that the skilled nursing
392 facility will not at any time participate in the Medicaid program



393 (Section 43-13-101 et seq.) or admit or keep any patients in the
394 skilled nursing facility who are participating in the Medicaid
395 program. This written agreement by the recipient of the
396 certificate of need shall be fully binding on any subsequent owner
397 of the skilled nursing facility, if the ownership of the facility
398 is transferred at any time after the issuance of the certificate
399 of need. Agreement that the skilled nursing facility will not
400 participate in the Medicaid program shall be a condition of the
401 issuance of a certificate of need to any person under this
402 paragraph (o), and if such skilled nursing facility at any time
403 after the issuance of the certificate of need, regardless of the
404 ownership of the facility, participates in the Medicaid program or
405 admits or keeps any patients in the facility who are participating
406 in the Medicaid program, the State Department of Health shall
407 revoke the certificate of need, if it is still outstanding, and
408 shall deny or revoke the license of the skilled nursing facility,
409 at the time that the department determines, after a hearing
410 complying with due process, that the facility has failed to comply
411 with any of the conditions upon which the certificate of need was
412 issued, as provided in this paragraph and in the written agreement
413 by the recipient of the certificate of need. The total number of
414 nursing facility beds that may be authorized by any certificate of
415 need issued under this paragraph (o) shall not exceed sixty (60)
416 beds. If the certificate of need authorized under this paragraph
417 is not issued within twelve (12) months after July 1, 2001, the
418 department shall deny the application for the certificate of need
419 and shall not issue the certificate of need at any time after the
420 twelve-month period, unless the issuance is contested. If the
421 certificate of need is issued and substantial construction of the
422 nursing facility beds has not commenced within eighteen (18)
423 months after the effective date of July 1, 2001, the State
424 Department of Health, after a hearing complying with due process,
425 shall revoke the certificate of need if it is still outstanding,



426 and the department shall not issue a license for the nursing
427 facility at any time after the eighteen-month period. Provided,
428 however, that if the issuance of the certificate of need is
429 contested, the department shall require substantial construction
430 of the nursing facility beds within six (6) months after final
431 adjudication on the issuance of the certificate of need.

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

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



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

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

488 (ii) Subject to the provisions of subparagraph
489 (v), during each of the next four (4) fiscal years, the department
490 shall issue six (6) certificates of need for new nursing facility
491 beds, as follows: During fiscal years 2000, 2001 and 2002, one



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

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



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

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



558 which counties have the highest need for nursing facility beds in
559 succeeding fiscal years.

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

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

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

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

584 (ii) Not more than twenty (20) beds may be
585 authorized by any certificate of need issued under this paragraph
586 (r), and not more than a total of sixty (60) beds may be
587 authorized in any Long-Term Care Planning District by all
588 certificates of need issued under this paragraph (r). However,
589 the total number of beds that may be authorized by all
590 certificates of need issued under this paragraph (r) during any



591 fiscal year shall not exceed one hundred twenty (120) beds, and
592 the total number of beds that may be authorized in any Long-Term
593 Care Planning District during any fiscal year shall not exceed
594 forty (40) beds. Of the certificates of need that are issued for
595 each Long-Term Care Planning District during the next two (2)
596 fiscal years, at least one (1) shall be issued for beds in the
597 northern part of the district, at least one (1) shall be issued
598 for beds in the central part of the district, and at least one (1)
599 shall be issued for beds in the southern part of the district.

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

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

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



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



657 the time that the department determines, after a hearing complying
658 with due process, that the facility has violated the condition
659 upon which the certificate of need was issued, as provided in this
660 paragraph and in the written agreement.

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

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



690 (40) of the beds in the psychiatric residential treatment facility
691 may be certified for participation in the Medicaid program, and
692 claims may be submitted for Medicaid reimbursement for all
693 patients in the psychiatric residential treatment facility. From
694 and after the effective date of this act, any restrictions or
695 limitations on Medicaid participation or reimbursement in
696 connection with the psychiatric residential treatment facility,
697 whether statutory or in any certificate of need, written agreement
698 or otherwise, shall be deemed null and void, and the facility and
699 all beds in the facility may participate fully in the Medicaid
700 program. In order for all forty (40) beds in the psychiatric
701 residential facility to become certified for Medicaid
702 reimbursement, the recipient of the certificate of need for the
703 facility shall not be required to obtain an additional certificate
704 of need, but shall only be required to provide written notice to
705 the State Department of Health, or its successor, and the Division
706 of Medicaid, or its successor, shall promptly issue a written
707 approval authorizing all forty (40) beds in the facility to be
708 certified for Medicaid participation, and shall promptly take any
709 and all action required to certify all forty (40) beds for
710 participation in the Medicaid program. From and after the
711 effective date of this act, the State Department of Health, or its
712 successor, shall not be authorized to revoke the license of the
713 psychiatric residential treatment facility on the grounds that the
714 facility admits or keeps, on a regular or continuing basis, more
715 than fifteen (15) patients who are participating in the Medicaid
716 program. There shall be no restriction or limitation regarding
717 Medicaid participation with respect to any subsequent owner of the
718 psychiatric residential treatment facility.

719 (d) Of the total number of beds authorized under this
720 subsection, the department may issue a certificate or certificates
721 of need for the construction or expansion of psychiatric
722 residential treatment facility beds or the conversion of other



723 beds to psychiatric treatment facility beds, not to exceed thirty
724 (30) psychiatric residential treatment facility beds, in either
725 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
726 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

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

735 (f) The department shall issue a certificate of need to
736 a one-hundred-thirty-four-bed specialty hospital located on
737 twenty-nine and forty-four one-hundredths (29.44) commercial acres
738 at 5900 Highway 39 North in Meridian (Lauderdale County),
739 Mississippi, for the addition, construction or expansion of
740 child/adolescent psychiatric residential treatment facility beds
741 in Lauderdale County. As a condition of issuance of the
742 certificate of need under this paragraph, the facility shall give
743 priority in admissions to the child/adolescent psychiatric
744 residential treatment facility beds authorized under this
745 paragraph to patients who otherwise would require out-of-state
746 placement. The Division of Medicaid, in conjunction with the
747 Department of Human Services, shall furnish the facility a list of
748 all out-of-state patients on a quarterly basis. Furthermore,
749 notice shall also be provided to the parent, custodial parent or
750 guardian of each out-of-state patient notifying them of the
751 priority status granted by this paragraph. For purposes of this
752 paragraph, the provisions of Section 41-7-193(1) requiring
753 substantial compliance with the projection of need as reported in
754 the current State Health Plan are waived. The total number of
755 child/adolescent psychiatric residential treatment facility beds



756 that may be authorized under the authority of this paragraph shall
757 be sixty (60) beds. There shall be no prohibition or restrictions
758 on participation in the Medicaid program (Section 43-13-101 et
759 seq.) for the person receiving the certificate of need authorized
760 under this paragraph or for the beds converted pursuant to the
761 authority of that certificate of need.

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

778 (i) The department may issue certificates of need
779 to any person for any purpose described in this subsection,
780 provided that the hospital, psychiatric hospital or chemical
781 dependency hospital does not participate in the Medicaid program
782 (Section 43-13-101 et seq.) at the time of the application for the
783 certificate of need and the owner of the hospital, psychiatric
784 hospital or chemical dependency hospital agrees in writing that
785 the hospital, psychiatric hospital or chemical dependency hospital
786 will not at any time participate in the Medicaid program or admit
787 or keep any patients who are participating in the Medicaid program
788 in the hospital, psychiatric hospital or chemical dependency



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

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



822 on participation in the Medicaid program (Section 43-13-101 et
823 seq.) for the hospital receiving the certificate of need
824 authorized under this subparagraph (a)(ii) or for the beds
825 converted pursuant to the authority of that certificate of need.

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

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

851 (iv) The department shall issue a certificate of
852 need to the Region 7 Mental Health/Retardation Commission for the
853 construction or expansion of child/adolescent psychiatric beds or
854 the conversion of other beds to child/adolescent psychiatric beds



855 in any of the counties served by the commission. For purposes of
856 this subparagraph, the provisions of Section 41-7-193(1) requiring
857 substantial compliance with the projection of need as reported in
858 the current State Health Plan is waived. The total number of beds
859 that may be authorized under the authority of this subparagraph
860 shall not exceed twenty (20) beds. There shall be no prohibition
861 or restrictions on participation in the Medicaid program (Section
862 43-13-101 et seq.) for the person receiving the certificate of
863 need authorized under this subparagraph (a)(iv) or for the beds
864 converted pursuant to the authority of that certificate of need.

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



888 hospital at the time that the department determines, after a
889 hearing complying with due process, that the hospital has failed
890 to comply with any of the conditions upon which the certificate of
891 need was issued, as provided in this subparagraph and in the
892 written agreement by the recipient of the certificate of need.

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

907 (vii) Notwithstanding the restrictions placed on
908 Medicaid participation in subsections (4)(a) and (4)(a)(i), from
909 and after the effective date of this act, a hospital in DeSoto
910 County currently operating Medicaid-certified acute
911 child/adolescent psychiatric beds may be certified for
912 participation in the Medicaid program for up to thirty-six (36) of
913 those acute child/adolescent psychiatric beds and claims may be
914 submitted for Medicaid reimbursement for all patients occupying
915 those thirty-six (36) beds. From and after the effective date of
916 this act, any restrictions or limitations on Medicaid
917 participation or reimbursement in connection with acute
918 child/adolescent psychiatric beds, whether statutory or in any
919 certificate of need, written statement or otherwise shall be
920 deemed null and void. In order for all thirty-six (36) beds



921 currently in operation under a certificate of need to become
922 certified for Medicaid reimbursement, the recipient of the
923 certificate of need for the facility shall not be required to
924 obtain an additional certificate of need, but shall only be
925 required to provide written notice to the State Department of
926 Health, or its successor, and the Division of Medicaid, or its
927 successor, shall promptly issue a written approval authorizing all
928 thirty-six (36) beds currently in operation to be certified for
929 Medicaid participation, and shall promptly take any and all action
930 required to certify all thirty-six (36) beds for participation in
931 the Medicaid program. From and after the effective date of this
932 act, the State Department of Health, or its successor, shall not
933 be authorized to revoke the license of the hospital in DeSoto
934 County on the grounds that the facility admits or keeps, on a
935 regular or continuing basis, all of the acute child/adolescent
936 psychiatric patients occupying those thirty-six (36) beds as
937 participants in the Medicaid program. There shall be no
938 restriction or limitation regarding Medicaid participation with
939 respect to any subsequent owner of the relevant DeSoto County
940 hospital.

941 (b) From and after July 1, 1990, no hospital,
942 psychiatric hospital or chemical dependency hospital shall be
943 authorized to add any child/adolescent psychiatric or
944 child/adolescent chemical dependency beds or convert any beds of
945 another category to child/adolescent psychiatric or
946 child/adolescent chemical dependency beds without a certificate of
947 need under the authority of subsection (1)(c) of this section.

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

951 (6) The State Department of Health shall issue a certificate
952 of need to a Mississippi corporation qualified to manage a
953 long-term care hospital as defined in Section 41-7-173(h)(xii) in



954 Harrison County, not to exceed eighty (80) beds, including any
955 necessary renovation or construction required for licensure and
956 certification, provided that the recipient of the certificate of
957 need agrees in writing that the long-term care hospital will not
958 at any time participate in the Medicaid program (Section 43-13-101
959 et seq.) or admit or keep any patients in the long-term care
960 hospital who are participating in the Medicaid program. This
961 written agreement by the recipient of the certificate of need
962 shall be fully binding on any subsequent owner of the long-term
963 care hospital, if the ownership of the facility is transferred at
964 any time after the issuance of the certificate of need. Agreement
965 that the long-term care hospital will not participate in the
966 Medicaid program shall be a condition of the issuance of a
967 certificate of need to any person under this subsection (6), and
968 if such long-term care hospital at any time after the issuance of
969 the certificate of need, regardless of the ownership of the
970 facility, participates in the Medicaid program or admits or keeps
971 any patients in the facility who are participating in the Medicaid
972 program, the State Department of Health shall revoke the
973 certificate of need, if it is still outstanding, and shall deny or
974 revoke the license of the long-term care hospital, at the time
975 that the department determines, after a hearing complying with due
976 process, that the facility has failed to comply with any of the
977 conditions upon which the certificate of need was issued, as
978 provided in this subsection and in the written agreement by the
979 recipient of the certificate of need. For purposes of this
980 subsection, the provision of Section 41-7-193(1) requiring
981 substantial compliance with the projection of need as reported in
982 the current State Health Plan is hereby waived.

983 (7) The State Department of Health may issue a certificate
984 of need to any hospital in the state to utilize a portion of its
985 beds for the "swing-bed" concept. Any such hospital must be in
986 conformance with the federal regulations regarding such swing-bed



987 concept at the time it submits its application for a certificate
988 of need to the State Department of Health, except that such
989 hospital may have more licensed beds or a higher average daily
990 census (ADC) than the maximum number specified in federal
991 regulations for participation in the swing-bed program. Any
992 hospital meeting all federal requirements for participation in the
993 swing-bed program which receives such certificate of need shall
994 render services provided under the swing-bed concept to any
995 patient eligible for Medicare (Title XVIII of the Social Security
996 Act) who is certified by a physician to be in need of such
997 services, and no such hospital shall permit any patient who is
998 eligible for both Medicaid and Medicare or eligible only for
999 Medicaid to stay in the swing beds of the hospital for more than
1000 thirty (30) days per admission unless the hospital receives prior
1001 approval for such patient from the Division of Medicaid, Office of
1002 the Governor. Any hospital having more licensed beds or a higher
1003 average daily census (ADC) than the maximum number specified in
1004 federal regulations for participation in the swing-bed program
1005 which receives such certificate of need shall develop a procedure
1006 to insure that before a patient is allowed to stay in the swing
1007 beds of the hospital, there are no vacant nursing home beds
1008 available for that patient located within a fifty-mile radius of
1009 the hospital. When any such hospital has a patient staying in the
1010 swing beds of the hospital and the hospital receives notice from a
1011 nursing home located within such radius that there is a vacant bed
1012 available for that patient, the hospital shall transfer the
1013 patient to the nursing home within a reasonable time after receipt
1014 of the notice. Any hospital which is subject to the requirements
1015 of the two (2) preceding sentences of this subsection may be
1016 suspended from participation in the swing-bed program for a
1017 reasonable period of time by the State Department of Health if the
1018 department, after a hearing complying with due process, determines



1019 that the hospital has failed to comply with any of those
1020 requirements.

1021 (8) The Department of Health shall not grant approval for or
1022 issue a certificate of need to any person proposing the new
1023 construction of, addition to or expansion of a health care
1024 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1025 (9) The Department of Health shall not grant approval for or
1026 issue a certificate of need to any person proposing the
1027 establishment of, or expansion of the currently approved territory
1028 of, or the contracting to establish a home office, subunit or
1029 branch office within the space operated as a health care facility
1030 as defined in Section 41-7-173(h) (i) through (viii) by a health
1031 care facility as defined in subparagraph (ix) of Section
1032 41-7-173(h).

1033 (10) Health care facilities owned and/or operated by the
1034 state or its agencies are exempt from the restraints in this
1035 section against issuance of a certificate of need if such addition
1036 or expansion consists of repairing or renovation necessary to
1037 comply with the state licensure law. This exception shall not
1038 apply to the new construction of any building by such state
1039 facility. This exception shall not apply to any health care
1040 facilities owned and/or operated by counties, municipalities,
1041 districts, unincorporated areas, other defined persons, or any
1042 combination thereof.

1043 (11) The new construction, renovation or expansion of or
1044 addition to any health care facility defined in subparagraph (ii)
1045 (psychiatric hospital), subparagraph (iv) (skilled nursing
1046 facility), subparagraph (vi) (intermediate care facility),
1047 subparagraph (viii) (intermediate care facility for the mentally
1048 retarded) and subparagraph (x) (psychiatric residential treatment
1049 facility) of Section 41-7-173(h) which is owned by the State of
1050 Mississippi and under the direction and control of the State
1051 Department of Mental Health, and the addition of new beds or the



1052 conversion of beds from one category to another in any such
1053 defined health care facility which is owned by the State of
1054 Mississippi and under the direction and control of the State
1055 Department of Mental Health, shall not require the issuance of a
1056 certificate of need under Section 41-7-171 et seq.,
1057 notwithstanding any provision in Section 41-7-171 et seq. to the
1058 contrary.

1059 (12) The new construction, renovation or expansion of or
1060 addition to any veterans homes or domiciliaries for eligible
1061 veterans of the State of Mississippi as authorized under Section
1062 35-1-19 shall not require the issuance of a certificate of need,
1063 notwithstanding any provision in Section 41-7-171 et seq. to the
1064 contrary.

1065 (13) The new construction of a nursing facility or nursing
1066 facility beds or the conversion of other beds to nursing facility
1067 beds shall not require the issuance of a certificate of need,
1068 notwithstanding any provision in Section 41-7-171 et seq. to the
1069 contrary, if the conditions of this subsection are met.

1070 (a) Before any construction or conversion may be
1071 undertaken without a certificate of need, the owner of the nursing
1072 facility, in the case of an existing facility, or the applicant to
1073 construct a nursing facility, in the case of new construction,
1074 first must file a written notice of intent and sign a written
1075 agreement with the State Department of Health that the entire
1076 nursing facility will not at any time participate in or have any
1077 beds certified for participation in the Medicaid program (Section
1078 43-13-101 et seq.), will not admit or keep any patients in the
1079 nursing facility who are participating in the Medicaid program,
1080 and will not submit any claim for Medicaid reimbursement for any
1081 patient in the facility. This written agreement by the owner or
1082 applicant shall be a condition of exercising the authority under
1083 this subsection without a certificate of need, and the agreement
1084 shall be fully binding on any subsequent owner of the nursing



1085 facility if the ownership of the facility is transferred at any
1086 time after the agreement is signed. After the written agreement
1087 is signed, the Division of Medicaid and the State Department of
1088 Health shall not certify any beds in the nursing facility for
1089 participation in the Medicaid program. If the nursing facility
1090 violates the terms of the written agreement by participating in
1091 the Medicaid program, having any beds certified for participation
1092 in the Medicaid program, admitting or keeping any patient in the
1093 facility who is participating in the Medicaid program, or
1094 submitting any claim for Medicaid reimbursement for any patient in
1095 the facility, the State Department of Health shall revoke the
1096 license of the nursing facility at the time that the department
1097 determines, after a hearing complying with due process, that the
1098 facility has violated the terms of the written agreement.

1099 (b) For the purposes of this subsection, participation
1100 in the Medicaid program by a nursing facility includes Medicaid
1101 reimbursement of coinsurance and deductibles for recipients who
1102 are qualified Medicare beneficiaries and/or those who are dually
1103 eligible. Any nursing facility exercising the authority under
1104 this subsection may not bill or submit a claim to the Division of
1105 Medicaid for services to qualified Medicare beneficiaries and/or
1106 those who are dually eligible.

1107 (c) The new construction of a nursing facility or
1108 nursing facility beds or the conversion of other beds to nursing
1109 facility beds described in this section must be either a part of a
1110 completely new continuing care retirement community, as described
1111 in the latest edition of the Mississippi State Health Plan, or an
1112 addition to existing personal care and independent living
1113 components, and so that the completed project will be a continuing
1114 care retirement community, containing (i) independent living
1115 accommodations, (ii) personal care beds, and (iii) the nursing
1116 home facility beds. The three (3) components must be located on a
1117 single site and be operated as one (1) inseparable facility. The



1118 nursing facility component must contain a minimum of thirty (30)
1119 beds. Any nursing facility beds authorized by this section will
1120 not be counted against the bed need set forth in the State Health
1121 Plan, as identified in Section 41-7-171, et seq.

1122 This subsection (13) shall stand repealed from and after July
1123 1, 2005.

1124 (14) The State Department of Health shall issue a
1125 certificate of need to any hospital which is currently licensed
1126 for two hundred fifty (250) or more acute care beds and is located
1127 in any general hospital service area not having a comprehensive
1128 cancer center, for the establishment and equipping of such a
1129 center which provides facilities and services for outpatient
1130 radiation oncology therapy, outpatient medical oncology therapy,
1131 and appropriate support services including the provision of
1132 radiation therapy services. The provision of Section 41-7-193(1)
1133 regarding substantial compliance with the projection of need as
1134 reported in the current State Health Plan is waived for the
1135 purpose of this subsection.

1136 (15) The State Department of Health may authorize the
1137 transfer of hospital beds, not to exceed sixty (60) beds, from the
1138 North Panola Community Hospital to the South Panola Community
1139 Hospital. The authorization for the transfer of those beds shall
1140 be exempt from the certificate of need review process.

1141 (16) Nothing in this section or in any other provision of
1142 Section 41-7-171 et seq. shall prevent any nursing facility from
1143 designating an appropriate number of existing beds in the facility
1144 as beds for providing care exclusively to patients with
1145 Alzheimer's disease.

1146 **SECTION 2.** This act shall take effect and be in force from
1147 and after its passage.

