

By: Senator(s) Carlton

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2716

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR  
3 AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY  
4 RETARDED/DEVELOPMENTALLY DISABLED IN PLANNING DISTRICT NO. 2; AND  
5 FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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



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

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

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



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

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





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

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



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

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



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

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



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

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



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



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

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

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



457 43-7-193(1) regarding substantial compliance of the projection of  
458 need as reported in the current State Health Plan is waived for  
459 the purposes of this paragraph. If the certificate of need  
460 authorized under this paragraph is not issued within twelve (12)  
461 months after July 1, 1998, the department shall deny the  
462 application for the certificate of need and shall not issue the  
463 certificate of need at any time after the twelve-month period,  
464 unless the issuance is contested. If the certificate of need is  
465 issued and substantial construction of the nursing facility beds  
466 has not commenced within eighteen (18) months after July 1, 1998,  
467 the State Department of Health, after a hearing complying with due  
468 process, shall revoke the certificate of need if it is still  
469 outstanding, and the department shall not issue a license for the  
470 nursing facility at any time after the eighteen-month period.  
471 Provided, however, that if the issuance of the certificate of need  
472 is contested, the department shall require substantial  
473 construction of the nursing facility beds within six (6) months  
474 after final adjudication on the issuance of the certificate of  
475 need.

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

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



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

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





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

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



556 which counties have the highest need for nursing facility beds in  
557 succeeding fiscal years.

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

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

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

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

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



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

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

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

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



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



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

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

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



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

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

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



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

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



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

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





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

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

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



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

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

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

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



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

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



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

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

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

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



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

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



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

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

978 (a) The department may issue a certificate or  
979 certificates of need for the construction, expansion or conversion  
980 of intermediate care facility for the mentally  
981 retarded/developmentally disabled (ICFMR) beds in Mental  
982 Retardation/Developmentally Disabled Long-Term Care Planning  
983 District No. 2. For purposes of this paragraph, the provisions of  
984 Section 41-7-193 (1) requiring substantial compliance with the



985 projection of need as reported in the current State Health Plan  
986 are waived. The total number of beds that may be authorized under  
987 the authority of this paragraph shall not exceed sixty (60) beds.  
988 There shall be no prohibition or restrictions on participation in  
989 the Medicaid program, Section 43-13-101 et seq., for the person  
990 receiving the certificate of need authorized under this paragraph  
991 (a) for the beds constructed, expanded or converted.

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

1000 (10) Health care facilities owned and/or operated by the  
1001 state or its agencies are exempt from the restraints in this  
1002 section against issuance of a certificate of need if such addition  
1003 or expansion consists of repairing or renovation necessary to  
1004 comply with the state licensure law. This exception shall not  
1005 apply to the new construction of any building by such state  
1006 facility. This exception shall not apply to any health care  
1007 facilities owned and/or operated by counties, municipalities,  
1008 districts, unincorporated areas, other defined persons, or any  
1009 combination thereof.

1010 (11) The new construction, renovation or expansion of or  
1011 addition to any health care facility defined in subparagraph (ii)  
1012 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1013 facility), subparagraph (vi) (intermediate care facility),  
1014 subparagraph (viii) (intermediate care facility for the mentally  
1015 retarded) and subparagraph (x) (psychiatric residential treatment  
1016 facility) of Section 41-7-173(h) which is owned by the State of  
1017 Mississippi and under the direction and control of the State



1018 Department of Mental Health, and the addition of new beds or the  
1019 conversion of beds from one category to another in any such  
1020 defined health care facility which is owned by the State of  
1021 Mississippi and under the direction and control of the State  
1022 Department of Mental Health, shall not require the issuance of a  
1023 certificate of need under Section 41-7-171 et seq.,  
1024 notwithstanding any provision in Section 41-7-171 et seq. to the  
1025 contrary.

1026 (12) The new construction, renovation or expansion of or  
1027 addition to any veterans homes or domiciliaries for eligible  
1028 veterans of the State of Mississippi as authorized under Section  
1029 35-1-19 shall not require the issuance of a certificate of need,  
1030 notwithstanding any provision in Section 41-7-171 et seq. to the  
1031 contrary.

1032 (13) The new construction of a nursing facility or nursing  
1033 facility beds or the conversion of other beds to nursing facility  
1034 beds shall not require the issuance of a certificate of need,  
1035 notwithstanding any provision in Section 41-7-171 et seq. to the  
1036 contrary, if the conditions of this subsection are met.

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





1051 shall be fully binding on any subsequent owner of the nursing  
1052 facility if the ownership of the facility is transferred at any  
1053 time after the agreement is signed. After the written agreement  
1054 is signed, the Division of Medicaid and the State Department of  
1055 Health shall not certify any beds in the nursing facility for  
1056 participation in the Medicaid program. If the nursing facility  
1057 violates the terms of the written agreement by participating in  
1058 the Medicaid program, having any beds certified for participation  
1059 in the Medicaid program, admitting or keeping any patient in the  
1060 facility who is participating in the Medicaid program, or  
1061 submitting any claim for Medicaid reimbursement for any patient in  
1062 the facility, the State Department of Health shall revoke the  
1063 license of the nursing facility at the time that the department  
1064 determines, after a hearing complying with due process, that the  
1065 facility has violated the terms of the written agreement.

1066 (b) For the purposes of this subsection, participation  
1067 in the Medicaid program by a nursing facility includes Medicaid  
1068 reimbursement of coinsurance and deductibles for recipients who  
1069 are qualified Medicare beneficiaries and/or those who are dually  
1070 eligible. Any nursing facility exercising the authority under  
1071 this subsection may not bill or submit a claim to the Division of  
1072 Medicaid for services to qualified Medicare beneficiaries and/or  
1073 those who are dually eligible.

1074 (c) The new construction of a nursing facility or  
1075 nursing facility beds or the conversion of other beds to nursing  
1076 facility beds described in this section must be either a part of a  
1077 completely new continuing care retirement community, as described  
1078 in the latest edition of the Mississippi State Health Plan, or an  
1079 addition to existing personal care and independent living  
1080 components, and so that the completed project will be a continuing  
1081 care retirement community, containing (i) independent living  
1082 accommodations, (ii) personal care beds, and (iii) the nursing  
1083 home facility beds. The three (3) components must be located on a



1084 single site and be operated as one (1) inseparable facility. The  
1085 nursing facility component must contain a minimum of thirty (30)  
1086 beds. Any nursing facility beds authorized by this section will  
1087 not be counted against the bed need set forth in the State Health  
1088 Plan, as identified in Section 41-7-171, et seq.

1089 This subsection (13) shall stand repealed from and after July  
1090 1, 2005.

1091 (14) The State Department of Health shall issue a  
1092 certificate of need to any hospital which is currently licensed  
1093 for two hundred fifty (250) or more acute care beds and is located  
1094 in any general hospital service area not having a comprehensive  
1095 cancer center, for the establishment and equipping of such a  
1096 center which provides facilities and services for outpatient  
1097 radiation oncology therapy, outpatient medical oncology therapy,  
1098 and appropriate support services including the provision of  
1099 radiation therapy services. The provision of Section 41-7-193(1)  
1100 regarding substantial compliance with the projection of need as  
1101 reported in the current State Health Plan is waived for the  
1102 purpose of this subsection.

1103 (15) The State Department of Health may authorize the  
1104 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1105 North Panola Community Hospital to the South Panola Community  
1106 Hospital. The authorization for the transfer of those beds shall  
1107 be exempt from the certificate of need review process.

1108 (16) Nothing in this section or in any other provision of  
1109 Section 41-7-171 et seq. shall prevent any nursing facility from  
1110 designating an appropriate number of existing beds in the facility  
1111 as beds for providing care exclusively to patients with  
1112 Alzheimer's disease.

1113 **SECTION 2.** This act shall take effect and be in force from  
1114 and after its passage.

