

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2795

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

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

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

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

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

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

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



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

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

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

58 * * *

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



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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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



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

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



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

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



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

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



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



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

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

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



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

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

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



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

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

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



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

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



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

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

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

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

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



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

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

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

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

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



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



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

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

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



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

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

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

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



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

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



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

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



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

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

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



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

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

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

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



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

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



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

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

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

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



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

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



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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

