

By: Senator(s) Minor

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2428

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A
3 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NEW ACUTE CARE
4 HOSPITAL IN THE CITY OF OLIVE BRANCH IN DESOTO COUNTY, NOT TO
5 EXCEED ONE HUNDRED ACUTE CARE BEDS; AND 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) Any change in the existing bed complement of any
22 health care facility through the addition or conversion of any
23 beds or the alteration, modernizing or refurbishing of any unit or
24 department in which the beds may be located;

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



29 (i) Open heart surgery services;
30 (ii) Cardiac catheterization services;
31 (iii) Comprehensive inpatient rehabilitation
32 services;
33 (iv) Licensed psychiatric services;
34 (v) Licensed chemical dependency services;
35 (vi) Radiation therapy services;
36 (vii) Diagnostic imaging services of an invasive
37 nature, i.e. invasive digital angiography;
38 (viii) Nursing home care as defined in
39 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
40 (ix) Home health services;
41 (x) Swing-bed services;
42 (xi) Ambulatory surgical services;
43 (xii) Magnetic resonance imaging services;
44 (xiii) Extracorporeal shock wave lithotripsy
45 services;
46 (xiv) Long-term care hospital services;
47 (xv) Positron Emission Tomography (PET) services;
48 (e) The relocation of one or more health services from
49 one physical facility or site to another physical facility or
50 site, unless such relocation, which does not involve a capital
51 expenditure by or on behalf of a health care facility, (i) is to a
52 physical facility or site within one thousand three hundred twenty
53 (1,320) feet from the main entrance of the health care facility
54 where the health care service is located, or (ii) is the result of
55 an order of a court of appropriate jurisdiction or a result of
56 pending litigation in such court, or by order of the State
57 Department of Health, or by order of any other agency or legal
58 entity of the state, the federal government, or any political
59 subdivision of either, whose order is also approved by the State
60 Department of Health;



61 (f) The acquisition or otherwise control of any major
62 medical equipment for the provision of medical services; provided,
63 however, (i) the acquisition of any major medical equipment used
64 only for research purposes, and (ii) the acquisition of major
65 medical equipment to replace medical equipment for which a
66 facility is already providing medical services and for which the
67 State Department of Health has been notified before the date of
68 such acquisition shall be exempt from this paragraph; an
69 acquisition for less than fair market value must be reviewed, if
70 the acquisition at fair market value would be subject to review;

71 (g) Changes of ownership of existing health care
72 facilities in which a notice of intent is not filed with the State
73 Department of Health at least thirty (30) days prior to the date
74 such change of ownership occurs, or a change in services or bed
75 capacity as prescribed in paragraph (c) or (d) of this subsection
76 as a result of the change of ownership; an acquisition for less
77 than fair market value must be reviewed, if the acquisition at
78 fair market value would be subject to review;

79 (h) The change of ownership of any health care facility
80 defined in subparagraphs (iv), (vi) and (viii) of Section
81 41-7-173(h), in which a notice of intent as described in paragraph
82 (g) has not been filed and if the Executive Director, Division of
83 Medicaid, Office of the Governor, has not certified in writing
84 that there will be no increase in allowable costs to Medicaid from
85 revaluation of the assets or from increased interest and
86 depreciation as a result of the proposed change of ownership;

87 (i) Any activity described in paragraphs (a) through
88 (h) if undertaken by any person if that same activity would
89 require certificate of need approval if undertaken by a health
90 care facility;

91 (j) Any capital expenditure or deferred capital
92 expenditure by or on behalf of a health care facility not covered
93 by paragraphs (a) through (h);



94 (k) The contracting of a health care facility as
95 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
96 to establish a home office, subunit, or branch office in the space
97 operated as a health care facility through a formal arrangement
98 with an existing health care facility as defined in subparagraph
99 (ix) of Section 41-7-173(h).

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

107 (a) The department may issue a certificate of need to
108 any person proposing the new construction of any health care
109 facility defined in subparagraphs (iv) and (vi) of Section
110 41-7-173(h) as part of a life care retirement facility, in any
111 county bordering on the Gulf of Mexico in which is located a
112 National Aeronautics and Space Administration facility, not to
113 exceed forty (40) beds. From and after July 1, 1999, there shall
114 be no prohibition or restrictions on participation in the Medicaid
115 program (Section 43-13-101 et seq.) for the beds in the health
116 care facility that were authorized under this paragraph (a).

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

124 (c) The department may issue a certificate of need for
125 the addition to or expansion of any skilled nursing facility that
126 is part of an existing continuing care retirement community



127 located in Madison County, provided that the recipient of the
128 certificate of need agrees in writing that the skilled nursing
129 facility will not at any time participate in the Medicaid program
130 (Section 43-13-101 et seq.) or admit or keep any patients in the
131 skilled nursing facility who are participating in the Medicaid
132 program. This written agreement by the recipient of the
133 certificate of need shall be fully binding on any subsequent owner
134 of the skilled nursing facility, if the ownership of the facility
135 is transferred at any time after the issuance of the certificate
136 of need. Agreement that the skilled nursing facility will not
137 participate in the Medicaid program shall be a condition of the
138 issuance of a certificate of need to any person under this
139 paragraph (c), and if such skilled nursing facility at any time
140 after the issuance of the certificate of need, regardless of the
141 ownership of the facility, participates in the Medicaid program or
142 admits or keeps any patients in the facility who are participating
143 in the Medicaid program, the State Department of Health shall
144 revoke the certificate of need, if it is still outstanding, and
145 shall deny or revoke the license of the skilled nursing facility,
146 at the time that the department determines, after a hearing
147 complying with due process, that the facility has failed to comply
148 with any of the conditions upon which the certificate of need was
149 issued, as provided in this paragraph and in the written agreement
150 by the recipient of the certificate of need. The total number of
151 beds that may be authorized under the authority of this paragraph
152 (c) shall not exceed sixty (60) beds.

153 (d) The State Department of Health may issue a
154 certificate of need to any hospital located in DeSoto County for
155 the new construction of a skilled nursing facility, not to exceed
156 one hundred twenty (120) beds, in DeSoto County. From and after
157 July 1, 1999, there shall be no prohibition or restrictions on
158 participation in the Medicaid program (Section 43-13-101 et seq.)



159 for the beds in the nursing facility that were authorized under
160 this paragraph (d).

161 (e) The State Department of Health may issue a
162 certificate of need for the construction of a nursing facility or
163 the conversion of beds to nursing facility beds at a personal care
164 facility for the elderly in Lowndes County that is owned and
165 operated by a Mississippi nonprofit corporation, not to exceed
166 sixty (60) beds. From and after July 1, 1999, there shall be no
167 prohibition or restrictions on participation in the Medicaid
168 program (Section 43-13-101 et seq.) for the beds in the nursing
169 facility that were authorized under this paragraph (e).

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

178 (g) The State Department of Health may issue a
179 certificate of need for the construction or expansion of nursing
180 facility beds or the conversion of other beds to nursing facility
181 beds in either Hinds, Madison or Rankin County, not to exceed
182 sixty (60) beds. From and after July 1, 1999, there shall be no
183 prohibition or restrictions on participation in the Medicaid
184 program (Section 43-13-101 et seq.) for the beds in the nursing
185 facility that were authorized under this paragraph (g).

186 (h) The State Department of Health may issue a
187 certificate of need for the construction or expansion of nursing
188 facility beds or the conversion of other beds to nursing facility
189 beds in either Hancock, Harrison or Jackson County, not to exceed
190 sixty (60) beds. From and after July 1, 1999, there shall be no
191 prohibition or restrictions on participation in the Medicaid



192 program (Section 43-13-101 et seq.) for the beds in the facility
193 that were authorized under this paragraph (h).

194 (i) The department may issue a certificate of need for
195 the new construction of a skilled nursing facility in Leake
196 County, provided that the recipient of the certificate of need
197 agrees in writing that the skilled nursing facility will not at
198 any time participate in the Medicaid program (Section 43-13-101 et
199 seq.) or admit or keep any patients in the skilled nursing
200 facility who are participating in the Medicaid program. This
201 written agreement by the recipient of the certificate of need
202 shall be fully binding on any subsequent owner of the skilled
203 nursing facility, if the ownership of the facility is transferred
204 at any time after the issuance of the certificate of need.
205 Agreement that the skilled nursing facility will not participate
206 in the Medicaid program shall be a condition of the issuance of a
207 certificate of need to any person under this paragraph (i), and if
208 such skilled nursing facility at any time after the issuance of
209 the certificate of need, regardless of the ownership of the
210 facility, participates in the Medicaid program or admits or keeps
211 any patients in the facility who are participating in the Medicaid
212 program, the State Department of Health shall revoke the
213 certificate of need, if it is still outstanding, and shall deny or
214 revoke the license of the skilled nursing facility, at the time
215 that the department determines, after a hearing complying with due
216 process, that the facility has failed to comply with any of the
217 conditions upon which the certificate of need was issued, as
218 provided in this paragraph and in the written agreement by the
219 recipient of the certificate of need. The provision of Section
220 43-7-193(1) regarding substantial compliance of the projection of
221 need as reported in the current State Health Plan is waived for
222 the purposes of this paragraph. The total number of nursing
223 facility beds that may be authorized by any certificate of need
224 issued under this paragraph (i) shall not exceed sixty (60) beds.



225 If the skilled nursing facility authorized by the certificate of
226 need issued under this paragraph is not constructed and fully
227 operational within eighteen (18) months after July 1, 1994, the
228 State Department of Health, after a hearing complying with due
229 process, shall revoke the certificate of need, if it is still
230 outstanding, and shall not issue a license for the skilled nursing
231 facility at any time after the expiration of the eighteen-month
232 period.

233 (j) The department may issue certificates of need to
234 allow any existing freestanding long-term care facility in
235 Tishomingo County and Hancock County that on July 1, 1995, is
236 licensed with fewer than sixty (60) beds. For the purposes of
237 this paragraph (j), the provision of Section 41-7-193(1) requiring
238 substantial compliance with the projection of need as reported in
239 the current State Health Plan is waived. From and after July 1,
240 1999, there shall be no prohibition or restrictions on
241 participation in the Medicaid program (Section 43-13-101 et seq.)
242 for the beds in the long-term care facilities that were authorized
243 under this paragraph (j).

244 (k) The department may issue a certificate of need for
245 the construction of a nursing facility at a continuing care
246 retirement community in Lowndes County. The total number of beds
247 that may be authorized under the authority of this paragraph (k)
248 shall not exceed sixty (60) beds. From and after July 1, 2001,
249 the prohibition on the facility participating in the Medicaid
250 program (Section 43-13-101 et seq.) that was a condition of
251 issuance of the certificate of need under this paragraph (k) shall
252 be revised as follows: The nursing facility may participate in
253 the Medicaid program from and after July 1, 2001, if the owner of
254 the facility on July 1, 2001, agrees in writing that no more than
255 thirty (30) of the beds at the facility will be certified for
256 participation in the Medicaid program, and that no claim will be
257 submitted for Medicaid reimbursement for more than thirty (30)



258 patients in the facility in any month or for any patient in the
259 facility who is in a bed that is not Medicaid-certified. This
260 written agreement by the owner of the facility shall be a
261 condition of licensure of the facility, and the agreement shall be
262 fully binding on any subsequent owner of the facility if the
263 ownership of the facility is transferred at any time after July 1,
264 2001. After this written agreement is executed, the Division of
265 Medicaid and the State Department of Health shall not certify more
266 than thirty (30) of the beds in the facility for participation in
267 the Medicaid program. If the facility violates the terms of the
268 written agreement by admitting or keeping in the facility on a
269 regular or continuing basis more than thirty (30) patients who are
270 participating in the Medicaid program, the State Department of
271 Health shall revoke the license of the facility, at the time that
272 the department determines, after a hearing complying with due
273 process, that the facility has violated the written agreement.

274 (1) Provided that funds are specifically appropriated
275 therefor by the Legislature, the department may issue a
276 certificate of need to a rehabilitation hospital in Hinds County
277 for the construction of a sixty-bed long-term care nursing
278 facility dedicated to the care and treatment of persons with
279 severe disabilities including persons with spinal cord and
280 closed-head injuries and ventilator-dependent patients. The
281 provision of Section 41-7-193(1) regarding substantial compliance
282 with projection of need as reported in the current State Health
283 Plan is hereby waived for the purpose of this paragraph.

284 (m) The State Department of Health may issue a
285 certificate of need to a county-owned hospital in the Second
286 Judicial District of Panola County for the conversion of not more
287 than seventy-two (72) hospital beds to nursing facility beds,
288 provided that the recipient of the certificate of need agrees in
289 writing that none of the beds at the nursing facility will be
290 certified for participation in the Medicaid program (Section



291 43-13-101 et seq.), and that no claim will be submitted for
292 Medicaid reimbursement in the nursing facility in any day or for
293 any patient in the nursing facility. This written agreement by
294 the recipient of the certificate of need shall be a condition of
295 the issuance of the certificate of need under this paragraph, and
296 the agreement shall be fully binding on any subsequent owner of
297 the nursing facility if the ownership of the nursing facility is
298 transferred at any time after the issuance of the certificate of
299 need. After this written agreement is executed, the Division of
300 Medicaid and the State Department of Health shall not certify any
301 of the beds in the nursing facility for participation in the
302 Medicaid program. If the nursing facility violates the terms of
303 the written agreement by admitting or keeping in the nursing
304 facility on a regular or continuing basis any patients who are
305 participating in the Medicaid program, the State Department of
306 Health shall revoke the license of the nursing facility, at the
307 time that the department determines, after a hearing complying
308 with due process, that the nursing facility has violated the
309 condition upon which the certificate of need was issued, as
310 provided in this paragraph and in the written agreement. If the
311 certificate of need authorized under this paragraph is not issued
312 within twelve (12) months after July 1, 2001, the department shall
313 deny the application for the certificate of need and shall not
314 issue the certificate of need at any time after the twelve-month
315 period, unless the issuance is contested. If the certificate of
316 need is issued and substantial construction of the nursing
317 facility beds has not commenced within eighteen (18) months after
318 July 1, 2001, the State Department of Health, after a hearing
319 complying with due process, shall revoke the certificate of need
320 if it is still outstanding, and the department shall not issue a
321 license for the nursing facility at any time after the
322 eighteen-month period. Provided, however, that if the issuance of
323 the certificate of need is contested, the department shall require



324 substantial construction of the nursing facility beds within six
325 (6) months after final adjudication on the issuance of the
326 certificate of need.

327 (n) The department may issue a certificate of need for
328 the new construction, addition or conversion of skilled nursing
329 facility beds in Madison County, provided that the recipient of
330 the certificate of need agrees in writing that the skilled nursing
331 facility will not at any time participate in the Medicaid program
332 (Section 43-13-101 et seq.) or admit or keep any patients in the
333 skilled nursing facility who are participating in the Medicaid
334 program. This written agreement by the recipient of the
335 certificate of need shall be fully binding on any subsequent owner
336 of the skilled nursing facility, if the ownership of the facility
337 is transferred at any time after the issuance of the certificate
338 of need. Agreement that the skilled nursing facility will not
339 participate in the Medicaid program shall be a condition of the
340 issuance of a certificate of need to any person under this
341 paragraph (n), and if such skilled nursing facility at any time
342 after the issuance of the certificate of need, regardless of the
343 ownership of the facility, participates in the Medicaid program or
344 admits or keeps any patients in the facility who are participating
345 in the Medicaid program, the State Department of Health shall
346 revoke the certificate of need, if it is still outstanding, and
347 shall deny or revoke the license of the skilled nursing facility,
348 at the time that the department determines, after a hearing
349 complying with due process, that the facility has failed to comply
350 with any of the conditions upon which the certificate of need was
351 issued, as provided in this paragraph and in the written agreement
352 by the recipient of the certificate of need. The total number of
353 nursing facility beds that may be authorized by any certificate of
354 need issued under this paragraph (n) shall not exceed sixty (60)
355 beds. If the certificate of need authorized under this paragraph
356 is not issued within twelve (12) months after July 1, 1998, the



357 department shall deny the application for the certificate of need
358 and shall not issue the certificate of need at any time after the
359 twelve-month period, unless the issuance is contested. If the
360 certificate of need is issued and substantial construction of the
361 nursing facility beds has not commenced within eighteen (18)
362 months after the effective date of July 1, 1998, the State
363 Department of Health, after a hearing complying with due process,
364 shall revoke the certificate of need if it is still outstanding,
365 and the department shall not issue a license for the nursing
366 facility at any time after the eighteen-month period. Provided,
367 however, that if the issuance of the certificate of need is
368 contested, the department shall require substantial construction
369 of the nursing facility beds within six (6) months after final
370 adjudication on the issuance of the certificate of need.

371 (o) The department may issue a certificate of need for
372 the new construction, addition or conversion of skilled nursing
373 facility beds in Leake County, provided that the recipient of the
374 certificate of need agrees in writing that the skilled nursing
375 facility will not at any time participate in the Medicaid program
376 (Section 43-13-101 et seq.) or admit or keep any patients in the
377 skilled nursing facility who are participating in the Medicaid
378 program. This written agreement by the recipient of the
379 certificate of need shall be fully binding on any subsequent owner
380 of the skilled nursing facility, if the ownership of the facility
381 is transferred at any time after the issuance of the certificate
382 of need. Agreement that the skilled nursing facility will not
383 participate in the Medicaid program shall be a condition of the
384 issuance of a certificate of need to any person under this
385 paragraph (o), and if such skilled nursing facility at any time
386 after the issuance of the certificate of need, regardless of the
387 ownership of the facility, participates in the Medicaid program or
388 admits or keeps any patients in the facility who are participating
389 in the Medicaid program, the State Department of Health shall



390 revoke the certificate of need, if it is still outstanding, and
391 shall deny or revoke the license of the skilled nursing facility,
392 at the time that the department determines, after a hearing
393 complying with due process, that the facility has failed to comply
394 with any of the conditions upon which the certificate of need was
395 issued, as provided in this paragraph and in the written agreement
396 by the recipient of the certificate of need. The total number of
397 nursing facility beds that may be authorized by any certificate of
398 need issued under this paragraph (o) shall not exceed sixty (60)
399 beds. If the certificate of need authorized under this paragraph
400 is not issued within twelve (12) months after July 1, 2001, the
401 department shall deny the application for the certificate of need
402 and shall not issue the certificate of need at any time after the
403 twelve-month period, unless the issuance is contested. If the
404 certificate of need is issued and substantial construction of the
405 nursing facility beds has not commenced within eighteen (18)
406 months after the effective date of July 1, 2001, the State
407 Department of Health, after a hearing complying with due process,
408 shall revoke the certificate of need if it is still outstanding,
409 and the department shall not issue a license for the nursing
410 facility at any time after the eighteen-month period. Provided,
411 however, that if the issuance of the certificate of need is
412 contested, the department shall require substantial construction
413 of the nursing facility beds within six (6) months after final
414 adjudication on the issuance of the certificate of need.

415 (p) The department may issue a certificate of need for
416 the construction of a municipally-owned nursing facility within
417 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
418 beds, provided that the recipient of the certificate of need
419 agrees in writing that the skilled nursing facility will not at
420 any time participate in the Medicaid program (Section 43-13-101 et
421 seq.) or admit or keep any patients in the skilled nursing
422 facility who are participating in the Medicaid program. This



423 written agreement by the recipient of the certificate of need
424 shall be fully binding on any subsequent owner of the skilled
425 nursing facility, if the ownership of the facility is transferred
426 at any time after the issuance of the certificate of need.
427 Agreement that the skilled nursing facility will not participate
428 in the Medicaid program shall be a condition of the issuance of a
429 certificate of need to any person under this paragraph (p), and if
430 such skilled nursing facility at any time after the issuance of
431 the certificate of need, regardless of the ownership of the
432 facility, participates in the Medicaid program or admits or keeps
433 any patients in the facility who are participating in the Medicaid
434 program, the State Department of Health shall revoke the
435 certificate of need, if it is still outstanding, and shall deny or
436 revoke the license of the skilled nursing facility, at the time
437 that the department determines, after a hearing complying with due
438 process, that the facility has failed to comply with any of the
439 conditions upon which the certificate of need was issued, as
440 provided in this paragraph and in the written agreement by the
441 recipient of the certificate of need. The provision of Section
442 43-7-193(1) regarding substantial compliance of the projection of
443 need as reported in the current State Health Plan is waived for
444 the purposes of this paragraph. If the certificate of need
445 authorized under this paragraph is not issued within twelve (12)
446 months after July 1, 1998, the department shall deny the
447 application for the certificate of need and shall not issue the
448 certificate of need at any time after the twelve-month period,
449 unless the issuance is contested. If the certificate of need is
450 issued and substantial construction of the nursing facility beds
451 has not commenced within eighteen (18) months after July 1, 1998,
452 the State Department of Health, after a hearing complying with due
453 process, shall revoke the certificate of need if it is still
454 outstanding, and the department shall not issue a license for the
455 nursing facility at any time after the eighteen-month period.



456 Provided, however, that if the issuance of the certificate of need
457 is contested, the department shall require substantial
458 construction of the nursing facility beds within six (6) months
459 after final adjudication on the issuance of the certificate of
460 need.

461 (q) (i) Beginning on July 1, 1999, the State
462 Department of Health shall issue certificates of need during each
463 of the next four (4) fiscal years for the construction or
464 expansion of nursing facility beds or the conversion of other beds
465 to nursing facility beds in each county in the state having a need
466 for fifty (50) or more additional nursing facility beds, as shown
467 in the fiscal year 1999 State Health Plan, in the manner provided
468 in this paragraph (q). The total number of nursing facility beds
469 that may be authorized by any certificate of need authorized under
470 this paragraph (q) shall not exceed sixty (60) beds.

471 (ii) Subject to the provisions of subparagraph
472 (v), during each of the next four (4) fiscal years, the department
473 shall issue six (6) certificates of need for new nursing facility
474 beds, as follows: During fiscal years 2000, 2001 and 2002, one
475 (1) certificate of need shall be issued for new nursing facility
476 beds in the county in each of the four (4) Long-Term Care Planning
477 Districts designated in the fiscal year 1999 State Health Plan
478 that has the highest need in the district for those beds; and two
479 (2) certificates of need shall be issued for new nursing facility
480 beds in the two (2) counties from the state at large that have the
481 highest need in the state for those beds, when considering the
482 need on a statewide basis and without regard to the Long-Term Care
483 Planning Districts in which the counties are located. During
484 fiscal year 2003, one (1) certificate of need shall be issued for
485 new nursing facility beds in any county having a need for fifty
486 (50) or more additional nursing facility beds, as shown in the
487 fiscal year 1999 State Health Plan, that has not received a
488 certificate of need under this paragraph (q) during the three (3)



489 previous fiscal years. During fiscal year 2000, in addition to
490 the six (6) certificates of need authorized in this subparagraph,
491 the department also shall issue a certificate of need for new
492 nursing facility beds in Amite County and a certificate of need
493 for new nursing facility beds in Carroll County.

494 (iii) Subject to the provisions of subparagraph
495 (v), the certificate of need issued under subparagraph (ii) for
496 nursing facility beds in each Long-Term Care Planning District
497 during each fiscal year shall first be available for nursing
498 facility beds in the county in the district having the highest
499 need for those beds, as shown in the fiscal year 1999 State Health
500 Plan. If there are no applications for a certificate of need for
501 nursing facility beds in the county having the highest need for
502 those beds by the date specified by the department, then the
503 certificate of need shall be available for nursing facility beds
504 in other counties in the district in descending order of the need
505 for those beds, from the county with the second highest need to
506 the county with the lowest need, until an application is received
507 for nursing facility beds in an eligible county in the district.

508 (iv) Subject to the provisions of subparagraph
509 (v), the certificate of need issued under subparagraph (ii) for
510 nursing facility beds in the two (2) counties from the state at
511 large during each fiscal year shall first be available for nursing
512 facility beds in the two (2) counties that have the highest need
513 in the state for those beds, as shown in the fiscal year 1999
514 State Health Plan, when considering the need on a statewide basis
515 and without regard to the Long-Term Care Planning Districts in
516 which the counties are located. If there are no applications for
517 a certificate of need for nursing facility beds in either of the
518 two (2) counties having the highest need for those beds on a
519 statewide basis by the date specified by the department, then the
520 certificate of need shall be available for nursing facility beds
521 in other counties from the state at large in descending order of



522 the need for those beds on a statewide basis, from the county with
523 the second highest need to the county with the lowest need, until
524 an application is received for nursing facility beds in an
525 eligible county from the state at large.

526 (v) If a certificate of need is authorized to be
527 issued under this paragraph (q) for nursing facility beds in a
528 county on the basis of the need in the Long-Term Care Planning
529 District during any fiscal year of the four-year period, a
530 certificate of need shall not also be available under this
531 paragraph (q) for additional nursing facility beds in that county
532 on the basis of the need in the state at large, and that county
533 shall be excluded in determining which counties have the highest
534 need for nursing facility beds in the state at large for that
535 fiscal year. After a certificate of need has been issued under
536 this paragraph (q) for nursing facility beds in a county during
537 any fiscal year of the four-year period, a certificate of need
538 shall not be available again under this paragraph (q) for
539 additional nursing facility beds in that county during the
540 four-year period, and that county shall be excluded in determining
541 which counties have the highest need for nursing facility beds in
542 succeeding fiscal years.

543 (vi) If more than one (1) application is made for
544 a certificate of need for nursing home facility beds available
545 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
546 County, and one (1) of the applicants is a county-owned hospital
547 located in the county where the nursing facility beds are
548 available, the department shall give priority to the county-owned
549 hospital in granting the certificate of need if the following
550 conditions are met:

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



554 2. The county-owned hospital's qualifications
555 for the certificate of need, as shown in its application and as
556 determined by the department, are at least equal to the
557 qualifications of the other applicants for the certificate of
558 need.

559 (r) (i) Beginning on July 1, 1999, the State
560 Department of Health shall issue certificates of need during each
561 of the next two (2) fiscal years for the construction or expansion
562 of nursing facility beds or the conversion of other beds to
563 nursing facility beds in each of the four (4) Long-Term Care
564 Planning Districts designated in the fiscal year 1999 State Health
565 Plan, to provide care exclusively to patients with Alzheimer's
566 disease.

567 (ii) Not more than twenty (20) beds may be
568 authorized by any certificate of need issued under this paragraph
569 (r), and not more than a total of sixty (60) beds may be
570 authorized in any Long-Term Care Planning District by all
571 certificates of need issued under this paragraph (r). However,
572 the total number of beds that may be authorized by all
573 certificates of need issued under this paragraph (r) during any
574 fiscal year shall not exceed one hundred twenty (120) beds, and
575 the total number of beds that may be authorized in any Long-Term
576 Care Planning District during any fiscal year shall not exceed
577 forty (40) beds. Of the certificates of need that are issued for
578 each Long-Term Care Planning District during the next two (2)
579 fiscal years, at least one (1) shall be issued for beds in the
580 northern part of the district, at least one (1) shall be issued
581 for beds in the central part of the district, and at least one (1)
582 shall be issued for beds in the southern part of the district.

583 (iii) The State Department of Health, in
584 consultation with the Department of Mental Health and the Division
585 of Medicaid, shall develop and prescribe the staffing levels,
586 space requirements and other standards and requirements that must



587 be met with regard to the nursing facility beds authorized under
588 this paragraph (r) to provide care exclusively to patients with
589 Alzheimer's disease.

590 (3) The State Department of Health may grant approval for
591 and issue certificates of need to any person proposing the new
592 construction of, addition to, conversion of beds of or expansion
593 of any health care facility defined in subparagraph (x)
594 (psychiatric residential treatment facility) of Section
595 41-7-173(h). The total number of beds which may be authorized by
596 such certificates of need shall not exceed three hundred
597 thirty-four (334) beds for the entire state.

598 (a) Of the total number of beds authorized under this
599 subsection, the department shall issue a certificate of need to a
600 privately-owned psychiatric residential treatment facility in
601 Simpson County for the conversion of sixteen (16) intermediate
602 care facility for the mentally retarded (ICF-MR) beds to
603 psychiatric residential treatment facility beds, provided that
604 facility agrees in writing that the facility shall give priority
605 for the use of those sixteen (16) beds to Mississippi residents
606 who are presently being treated in out-of-state facilities.

607 (b) Of the total number of beds authorized under this
608 subsection, the department may issue a certificate or certificates
609 of need for the construction or expansion of psychiatric
610 residential treatment facility beds or the conversion of other
611 beds to psychiatric residential treatment facility beds in Warren
612 County, not to exceed sixty (60) psychiatric residential treatment
613 facility beds, provided that the facility agrees in writing that
614 no more than thirty (30) of the beds at the psychiatric
615 residential treatment facility will be certified for participation
616 in the Medicaid program (Section 43-13-101 et seq.) for the use of
617 any patients other than those who are participating only in the
618 Medicaid program of another state, and that no claim will be
619 submitted to the Division of Medicaid for Medicaid reimbursement



620 for more than thirty (30) patients in the psychiatric residential
621 treatment facility in any day or for any patient in the
622 psychiatric residential treatment facility who is in a bed that is
623 not Medicaid-certified. This written agreement by the recipient
624 of the certificate of need shall be a condition of the issuance of
625 the certificate of need under this paragraph, and the agreement
626 shall be fully binding on any subsequent owner of the psychiatric
627 residential treatment facility if the ownership of the facility is
628 transferred at any time after the issuance of the certificate of
629 need. After this written agreement is executed, the Division of
630 Medicaid and the State Department of Health shall not certify more
631 than thirty (30) of the beds in the psychiatric residential
632 treatment facility for participation in the Medicaid program for
633 the use of any patients other than those who are participating
634 only in the Medicaid program of another state. If the psychiatric
635 residential treatment facility violates the terms of the written
636 agreement by admitting or keeping in the facility on a regular or
637 continuing basis more than thirty (30) patients who are
638 participating in the Mississippi Medicaid program, the State
639 Department of Health shall revoke the license of the facility, at
640 the time that the department determines, after a hearing complying
641 with due process, that the facility has violated the condition
642 upon which the certificate of need was issued, as provided in this
643 paragraph and in the written agreement.

644 The State Department of Health, on or before July 1, 2002,
645 shall transfer the certificate of need authorized under the
646 authority of this paragraph (b), or reissue the certificate of
647 need if it has expired, to River Region Health System.

648 (c) Of the total number of beds authorized under this
649 subsection, the department shall issue a certificate of need to a
650 hospital currently operating Medicaid-certified acute psychiatric
651 beds for adolescents in DeSoto County, for the establishment of a
652 forty-bed psychiatric residential treatment facility in DeSoto



653 County, provided that the hospital agrees in writing (i) that the
654 hospital shall give priority for the use of those forty (40) beds
655 to Mississippi residents who are presently being treated in
656 out-of-state facilities, and (ii) that no more than fifteen (15)
657 of the beds at the psychiatric residential treatment facility will
658 be certified for participation in the Medicaid program (Section
659 43-13-101 et seq.), and that no claim will be submitted for
660 Medicaid reimbursement for more than fifteen (15) patients in the
661 psychiatric residential treatment facility in any day or for any
662 patient in the psychiatric residential treatment facility who is
663 in a bed that is not Medicaid-certified. This written agreement
664 by the recipient of the certificate of need shall be a condition
665 of the issuance of the certificate of need under this paragraph,
666 and the agreement shall be fully binding on any subsequent owner
667 of the psychiatric residential treatment facility if the ownership
668 of the facility is transferred at any time after the issuance of
669 the certificate of need. After this written agreement is
670 executed, the Division of Medicaid and the State Department of
671 Health shall not certify more than fifteen (15) of the beds in the
672 psychiatric residential treatment facility for participation in
673 the Medicaid program. If the psychiatric residential treatment
674 facility violates the terms of the written agreement by admitting
675 or keeping in the facility on a regular or continuing basis more
676 than fifteen (15) patients who are participating in the Medicaid
677 program, the State Department of Health shall revoke the license
678 of the facility, at the time that the department determines, after
679 a hearing complying with due process, that the facility has
680 violated the condition upon which the certificate of need was
681 issued, as provided in this paragraph and in the written
682 agreement.

683 (d) Of the total number of beds authorized under this
684 subsection, the department may issue a certificate or certificates
685 of need for the construction or expansion of psychiatric



686 residential treatment facility beds or the conversion of other
687 beds to psychiatric treatment facility beds, not to exceed thirty
688 (30) psychiatric residential treatment facility beds, in either
689 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
690 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

691 (e) Of the total number of beds authorized under this
692 subsection (3) the department shall issue a certificate of need to
693 a privately-owned, nonprofit psychiatric residential treatment
694 facility in Hinds County for an eight-bed expansion of the
695 facility, provided that the facility agrees in writing that the
696 facility shall give priority for the use of those eight (8) beds
697 to Mississippi residents who are presently being treated in
698 out-of-state facilities.

699 (f) The department shall issue a certificate of need to
700 a one-hundred-thirty-four-bed specialty hospital located on
701 twenty-nine and forty-four one-hundredths (29.44) commercial acres
702 at 5900 Highway 39 North in Meridian (Lauderdale County),
703 Mississippi, for the addition, construction or expansion of
704 child/adolescent psychiatric residential treatment facility beds
705 in Lauderdale County. As a condition of issuance of the
706 certificate of need under this paragraph, the facility shall give
707 priority in admissions to the child/adolescent psychiatric
708 residential treatment facility beds authorized under this
709 paragraph to patients who otherwise would require out-of-state
710 placement. The Division of Medicaid, in conjunction with the
711 Department of Human Services, shall furnish the facility a list of
712 all out-of-state patients on a quarterly basis. Furthermore,
713 notice shall also be provided to the parent, custodial parent or
714 guardian of each out-of-state patient notifying them of the
715 priority status granted by this paragraph. For purposes of this
716 paragraph, the provisions of Section 41-7-193(1) requiring
717 substantial compliance with the projection of need as reported in
718 the current State Health Plan are waived. The total number of



719 child/adolescent psychiatric residential treatment facility beds
720 that may be authorized under the authority of this paragraph shall
721 be sixty (60) beds. There shall be no prohibition or restrictions
722 on participation in the Medicaid program (Section 43-13-101 et
723 seq.) for the person receiving the certificate of need authorized
724 under this paragraph or for the beds converted pursuant to the
725 authority of that certificate of need.

726 (4) (a) From and after July 1, 1993, the department shall
727 not issue a certificate of need to any person for the new
728 construction of any hospital, psychiatric hospital or chemical
729 dependency hospital that will contain any child/adolescent
730 psychiatric or child/adolescent chemical dependency beds, or for
731 the conversion of any other health care facility to a hospital,
732 psychiatric hospital or chemical dependency hospital that will
733 contain any child/adolescent psychiatric or child/adolescent
734 chemical dependency beds, or for the addition of any
735 child/adolescent psychiatric or child/adolescent chemical
736 dependency beds in any hospital, psychiatric hospital or chemical
737 dependency hospital, or for the conversion of any beds of another
738 category in any hospital, psychiatric hospital or chemical
739 dependency hospital to child/adolescent psychiatric or
740 child/adolescent chemical dependency beds, except as hereinafter
741 authorized:

742 (i) The department may issue certificates of need
743 to any person for any purpose described in this subsection,
744 provided that the hospital, psychiatric hospital or chemical
745 dependency hospital does not participate in the Medicaid program
746 (Section 43-13-101 et seq.) at the time of the application for the
747 certificate of need and the owner of the hospital, psychiatric
748 hospital or chemical dependency hospital agrees in writing that
749 the hospital, psychiatric hospital or chemical dependency hospital
750 will not at any time participate in the Medicaid program or admit
751 or keep any patients who are participating in the Medicaid program



752 in the hospital, psychiatric hospital or chemical dependency
753 hospital. This written agreement by the recipient of the
754 certificate of need shall be fully binding on any subsequent owner
755 of the hospital, psychiatric hospital or chemical dependency
756 hospital, if the ownership of the facility is transferred at any
757 time after the issuance of the certificate of need. Agreement
758 that the hospital, psychiatric hospital or chemical dependency
759 hospital will not participate in the Medicaid program shall be a
760 condition of the issuance of a certificate of need to any person
761 under this subparagraph (a)(i), and if such hospital, psychiatric
762 hospital or chemical dependency hospital at any time after the
763 issuance of the certificate of need, regardless of the ownership
764 of the facility, participates in the Medicaid program or admits or
765 keeps any patients in the hospital, psychiatric hospital or
766 chemical dependency hospital who are participating in the Medicaid
767 program, the State Department of Health shall revoke the
768 certificate of need, if it is still outstanding, and shall deny or
769 revoke the license of the hospital, psychiatric hospital or
770 chemical dependency hospital, at the time that the department
771 determines, after a hearing complying with due process, that the
772 hospital, psychiatric hospital or chemical dependency hospital has
773 failed to comply with any of the conditions upon which the
774 certificate of need was issued, as provided in this subparagraph
775 and in the written agreement by the recipient of the certificate
776 of need.

777 (ii) The department may issue a certificate of
778 need for the conversion of existing beds in a county hospital in
779 Choctaw County from acute care beds to child/adolescent chemical
780 dependency beds. For purposes of this subparagraph, the
781 provisions of Section 41-7-193(1) requiring substantial compliance
782 with the projection of need as reported in the current State
783 Health Plan is waived. The total number of beds that may be
784 authorized under authority of this subparagraph shall not exceed



785 twenty (20) beds. There shall be no prohibition or restrictions
786 on participation in the Medicaid program (Section 43-13-101 et
787 seq.) for the hospital receiving the certificate of need
788 authorized under this subparagraph (a)(ii) or for the beds
789 converted pursuant to the authority of that certificate of need.

790 (iii) The department may issue a certificate or
791 certificates of need for the construction or expansion of
792 child/adolescent psychiatric beds or the conversion of other beds
793 to child/adolescent psychiatric beds in Warren County. For
794 purposes of this subparagraph, the provisions of Section
795 41-7-193(1) requiring substantial compliance with the projection
796 of need as reported in the current State Health Plan are waived.
797 The total number of beds that may be authorized under the
798 authority of this subparagraph shall not exceed twenty (20) beds.
799 There shall be no prohibition or restrictions on participation in
800 the Medicaid program (Section 43-13-101 et seq.) for the person
801 receiving the certificate of need authorized under this
802 subparagraph (a)(iii) or for the beds converted pursuant to the
803 authority of that certificate of need.

804 If by January 1, 2002, there has been no significant
805 commencement of construction of the beds authorized under this
806 subparagraph (a)(iii), or no significant action taken to convert
807 existing beds to the beds authorized under this subparagraph, then
808 the certificate of need that was previously issued under this
809 subparagraph shall expire. If the previously issued certificate
810 of need expires, the department may accept applications for
811 issuance of another certificate of need for the beds authorized
812 under this subparagraph, and may issue a certificate of need to
813 authorize the construction, expansion or conversion of the beds
814 authorized under this subparagraph.

815 (iv) The department shall issue a certificate of
816 need to the Region 7 Mental Health/Retardation Commission for the
817 construction or expansion of child/adolescent psychiatric beds or



818 the conversion of other beds to child/adolescent psychiatric beds
819 in any of the counties served by the commission. For purposes of
820 this subparagraph, the provisions of Section 41-7-193(1) requiring
821 substantial compliance with the projection of need as reported in
822 the current State Health Plan is waived. The total number of beds
823 that may be authorized under the authority of this subparagraph
824 shall not exceed twenty (20) beds. There shall be no prohibition
825 or restrictions on participation in the Medicaid program (Section
826 43-13-101 et seq.) for the person receiving the certificate of
827 need authorized under this subparagraph (a)(iv) or for the beds
828 converted pursuant to the authority of that certificate of need.

829 (v) The department may issue a certificate of need
830 to any county hospital located in Leflore County for the
831 construction or expansion of adult psychiatric beds or the
832 conversion of other beds to adult psychiatric beds, not to exceed
833 twenty (20) beds, provided that the recipient of the certificate
834 of need agrees in writing that the adult psychiatric beds will not
835 at any time be certified for participation in the Medicaid program
836 and that the hospital will not admit or keep any patients who are
837 participating in the Medicaid program in any of such adult
838 psychiatric beds. This written agreement by the recipient of the
839 certificate of need shall be fully binding on any subsequent owner
840 of the hospital if the ownership of the hospital is transferred at
841 any time after the issuance of the certificate of need. Agreement
842 that the adult psychiatric beds will not be certified for
843 participation in the Medicaid program shall be a condition of the
844 issuance of a certificate of need to any person under this
845 subparagraph (a)(v), and if such hospital at any time after the
846 issuance of the certificate of need, regardless of the ownership
847 of the hospital, has any of such adult psychiatric beds certified
848 for participation in the Medicaid program or admits or keeps any
849 Medicaid patients in such adult psychiatric beds, the State
850 Department of Health shall revoke the certificate of need, if it



851 is still outstanding, and shall deny or revoke the license of the
852 hospital at the time that the department determines, after a
853 hearing complying with due process, that the hospital has failed
854 to comply with any of the conditions upon which the certificate of
855 need was issued, as provided in this subparagraph and in the
856 written agreement by the recipient of the certificate of need.

857 (vi) The department may issue a certificate or
858 certificates of need for the expansion of child psychiatric beds
859 or the conversion of other beds to child psychiatric beds at the
860 University of Mississippi Medical Center. For purposes of this
861 subparagraph (a)(vi), the provision of Section 41-7-193(1)
862 requiring substantial compliance with the projection of need as
863 reported in the current State Health Plan is waived. The total
864 number of beds that may be authorized under the authority of this
865 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
866 shall be no prohibition or restrictions on participation in the
867 Medicaid program (Section 43-13-101 et seq.) for the hospital
868 receiving the certificate of need authorized under this
869 subparagraph (a)(vi) or for the beds converted pursuant to the
870 authority of that certificate of need.

871 (b) From and after July 1, 1990, no hospital,
872 psychiatric hospital or chemical dependency hospital shall be
873 authorized to add any child/adolescent psychiatric or
874 child/adolescent chemical dependency beds or convert any beds of
875 another category to child/adolescent psychiatric or
876 child/adolescent chemical dependency beds without a certificate of
877 need under the authority of subsection (1)(c) of this section.

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

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



884 Harrison County, not to exceed eighty (80) beds, including any
885 necessary renovation or construction required for licensure and
886 certification, provided that the recipient of the certificate of
887 need agrees in writing that the long-term care hospital will not
888 at any time participate in the Medicaid program (Section 43-13-101
889 et seq.) or admit or keep any patients in the long-term care
890 hospital who are participating in the Medicaid program. This
891 written agreement by the recipient of the certificate of need
892 shall be fully binding on any subsequent owner of the long-term
893 care hospital, if the ownership of the facility is transferred at
894 any time after the issuance of the certificate of need. Agreement
895 that the long-term care hospital will not participate in the
896 Medicaid program shall be a condition of the issuance of a
897 certificate of need to any person under this subsection (6), and
898 if such long-term care hospital at any time after the issuance of
899 the certificate of need, regardless of the ownership of the
900 facility, participates in the Medicaid program or admits or keeps
901 any patients in the facility who are participating in the Medicaid
902 program, the State Department of Health shall revoke the
903 certificate of need, if it is still outstanding, and shall deny or
904 revoke the license of the long-term care hospital, at the time
905 that the department determines, after a hearing complying with due
906 process, that the facility has failed to comply with any of the
907 conditions upon which the certificate of need was issued, as
908 provided in this subsection and in the written agreement by the
909 recipient of the certificate of need. For purposes of this
910 subsection, the provision of Section 41-7-193(1) requiring
911 substantial compliance with the projection of need as reported in
912 the current State Health Plan is hereby waived.

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



917 concept at the time it submits its application for a certificate
918 of need to the State Department of Health, except that such
919 hospital may have more licensed beds or a higher average daily
920 census (ADC) than the maximum number specified in federal
921 regulations for participation in the swing-bed program. Any
922 hospital meeting all federal requirements for participation in the
923 swing-bed program which receives such certificate of need shall
924 render services provided under the swing-bed concept to any
925 patient eligible for Medicare (Title XVIII of the Social Security
926 Act) who is certified by a physician to be in need of such
927 services, and no such hospital shall permit any patient who is
928 eligible for both Medicaid and Medicare or eligible only for
929 Medicaid to stay in the swing beds of the hospital for more than
930 thirty (30) days per admission unless the hospital receives prior
931 approval for such patient from the Division of Medicaid, Office of
932 the Governor. Any hospital having more licensed beds or a higher
933 average daily census (ADC) than the maximum number specified in
934 federal regulations for participation in the swing-bed program
935 which receives such certificate of need shall develop a procedure
936 to insure that before a patient is allowed to stay in the swing
937 beds of the hospital, there are no vacant nursing home beds
938 available for that patient located within a fifty-mile radius of
939 the hospital. When any such hospital has a patient staying in the
940 swing beds of the hospital and the hospital receives notice from a
941 nursing home located within such radius that there is a vacant bed
942 available for that patient, the hospital shall transfer the
943 patient to the nursing home within a reasonable time after receipt
944 of the notice. Any hospital which is subject to the requirements
945 of the two (2) preceding sentences of this subsection may be
946 suspended from participation in the swing-bed program for a
947 reasonable period of time by the State Department of Health if the
948 department, after a hearing complying with due process, determines



949 that the hospital has failed to comply with any of those
950 requirements.

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

955 (9) The Department of Health shall not grant approval for or
956 issue a certificate of need to any person proposing the
957 establishment of, or expansion of the currently approved territory
958 of, or the contracting to establish a home office, subunit or
959 branch office within the space operated as a health care facility
960 as defined in Section 41-7-173(h) (i) through (viii) by a health
961 care facility as defined in subparagraph (ix) of Section
962 41-7-173(h).

963 (10) Health care facilities owned and/or operated by the
964 state or its agencies are exempt from the restraints in this
965 section against issuance of a certificate of need if such addition
966 or expansion consists of repairing or renovation necessary to
967 comply with the state licensure law. This exception shall not
968 apply to the new construction of any building by such state
969 facility. This exception shall not apply to any health care
970 facilities owned and/or operated by counties, municipalities,
971 districts, unincorporated areas, other defined persons, or any
972 combination thereof.

973 (11) The new construction, renovation or expansion of or
974 addition to any health care facility defined in subparagraph (ii)
975 (psychiatric hospital), subparagraph (iv) (skilled nursing
976 facility), subparagraph (vi) (intermediate care facility),
977 subparagraph (viii) (intermediate care facility for the mentally
978 retarded) and subparagraph (x) (psychiatric residential treatment
979 facility) of Section 41-7-173(h) which is owned by the State of
980 Mississippi and under the direction and control of the State
981 Department of Mental Health, and the addition of new beds or the



982 conversion of beds from one category to another in any such
983 defined health care facility which is owned by the State of
984 Mississippi and under the direction and control of the State
985 Department of Mental Health, shall not require the issuance of a
986 certificate of need under Section 41-7-171 et seq.,
987 notwithstanding any provision in Section 41-7-171 et seq. to the
988 contrary.

989 (12) The new construction, renovation or expansion of or
990 addition to any veterans homes or domiciliaries for eligible
991 veterans of the State of Mississippi as authorized under Section
992 35-1-19 shall not require the issuance of a certificate of need,
993 notwithstanding any provision in Section 41-7-171 et seq. to the
994 contrary.

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

1000 (a) Before any construction or conversion may be
1001 undertaken without a certificate of need, the owner of the nursing
1002 facility, in the case of an existing facility, or the applicant to
1003 construct a nursing facility, in the case of new construction,
1004 first must file a written notice of intent and sign a written
1005 agreement with the State Department of Health that the entire
1006 nursing facility will not at any time participate in or have any
1007 beds certified for participation in the Medicaid program (Section
1008 43-13-101 et seq.), will not admit or keep any patients in the
1009 nursing facility who are participating in the Medicaid program,
1010 and will not submit any claim for Medicaid reimbursement for any
1011 patient in the facility. This written agreement by the owner or
1012 applicant shall be a condition of exercising the authority under
1013 this subsection without a certificate of need, and the agreement
1014 shall be fully binding on any subsequent owner of the nursing



1015 facility if the ownership of the facility is transferred at any
1016 time after the agreement is signed. After the written agreement
1017 is signed, the Division of Medicaid and the State Department of
1018 Health shall not certify any beds in the nursing facility for
1019 participation in the Medicaid program. If the nursing facility
1020 violates the terms of the written agreement by participating in
1021 the Medicaid program, having any beds certified for participation
1022 in the Medicaid program, admitting or keeping any patient in the
1023 facility who is participating in the Medicaid program, or
1024 submitting any claim for Medicaid reimbursement for any patient in
1025 the facility, the State Department of Health shall revoke the
1026 license of the nursing facility at the time that the department
1027 determines, after a hearing complying with due process, that the
1028 facility has violated the terms of the written agreement.

1029 (b) For the purposes of this subsection, participation
1030 in the Medicaid program by a nursing facility includes Medicaid
1031 reimbursement of coinsurance and deductibles for recipients who
1032 are qualified Medicare beneficiaries and/or those who are dually
1033 eligible. Any nursing facility exercising the authority under
1034 this subsection may not bill or submit a claim to the Division of
1035 Medicaid for services to qualified Medicare beneficiaries and/or
1036 those who are dually eligible.

1037 (c) The new construction of a nursing facility or
1038 nursing facility beds or the conversion of other beds to nursing
1039 facility beds described in this section must be either a part of a
1040 completely new continuing care retirement community, as described
1041 in the latest edition of the Mississippi State Health Plan, or an
1042 addition to existing personal care and independent living
1043 components, and so that the completed project will be a continuing
1044 care retirement community, containing (i) independent living
1045 accommodations, (ii) personal care beds, and (iii) the nursing
1046 home facility beds. The three (3) components must be located on a
1047 single site and be operated as one (1) inseparable facility. The



1048 nursing facility component must contain a minimum of thirty (30)
1049 beds. Any nursing facility beds authorized by this section will
1050 not be counted against the bed need set forth in the State Health
1051 Plan, as identified in Section 41-7-171 et seq.

1052 This subsection (13) shall stand repealed from and after July
1053 1, 2005.

1054 (14) The State Department of Health shall issue a
1055 certificate of need to any hospital which is currently licensed
1056 for two hundred fifty (250) or more acute care beds and is located
1057 in any general hospital service area not having a comprehensive
1058 cancer center, for the establishment and equipping of such a
1059 center which provides facilities and services for outpatient
1060 radiation oncology therapy, outpatient medical oncology therapy,
1061 and appropriate support services including the provision of
1062 radiation therapy services. The provision of Section 41-7-193(1)
1063 regarding substantial compliance with the projection of need as
1064 reported in the current State Health Plan is waived for the
1065 purpose of this subsection.

1066 (15) The State Department of Health may authorize the
1067 transfer of hospital beds, not to exceed sixty (60) beds, from the
1068 North Panola Community Hospital to the South Panola Community
1069 Hospital. The authorization for the transfer of those beds shall
1070 be exempt from the certificate of need review process.

1071 (16) The State Department of Health shall issue a
1072 certificate of need for the construction of a new acute care
1073 hospital in the City of Olive Branch in DeSoto County, not to
1074 exceed one hundred (100) acute care beds.

1075 (17) Nothing in this section or in any other provision of
1076 Section 41-7-171 et seq. shall prevent any nursing facility from
1077 designating an appropriate number of existing beds in the facility
1078 as beds for providing care exclusively to patients with
1079 Alzheimer's disease.



1080 **SECTION 2.** This act shall take effect and be in force from
1081 and after July 1, 2003.

