

By: Representatives Green, Clarke, Calhoun,
Evans

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 802

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR THE
3 CONSTRUCTION OF A NURSING HOME IN AN UNDERSERVED MINORITY ZIP CODE
4 AREA IN A COUNTY HAVING A PROJECTED NEED FOR AT LEAST 400
5 ADDITIONAL NURSING HOME 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; however, if a health
25 care facility has voluntarily delicensed some of its existing bed
26 complement, it may later relicense some or all of its delicensed
27 beds without the necessity of having to acquire a certificate of
28 need. The State Department of Health shall maintain a record of

29 the delicensing health care facility and its voluntarily
30 delicensed beds and continue counting those beds as part of the
31 state's total bed count for health care planning purposes. If a
32 health care facility that has voluntarily delicensed some of its
33 beds later desires to relicense some or all of its voluntarily
34 delicensed beds, it shall notify the State Department of Health of
35 its intent to increase the number of its licensed beds. The State
36 Department of Health shall survey the health care facility within
37 thirty (30) days of that notice and, if appropriate, issue the
38 health care facility a new license reflecting the new contingent
39 of beds. However, in no event may a health care facility that has
40 voluntarily delicensed some of its beds be reissued a license to
41 operate beds in excess of its bed count before the voluntary
42 delicensure of some of its beds without seeking certificate of
43 need approval;

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

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

62 (xii) Magnetic resonance imaging services;
63 (xiii) Extracorporeal shock wave lithotripsy
64 services;
65 (xiv) Long-term care hospital services;
66 (xv) Positron Emission Tomography (PET) services;
67 (e) The relocation of one or more health services from
68 one physical facility or site to another physical facility or
69 site, unless such relocation, which does not involve a capital
70 expenditure by or on behalf of a health care facility, (i) is to a
71 physical facility or site within one thousand three hundred twenty
72 (1,320) feet from the main entrance of the health care facility
73 where the health care service is located, or (ii) is the result of
74 an order of a court of appropriate jurisdiction or a result of
75 pending litigation in such court, or by order of the State
76 Department of Health, or by order of any other agency or legal
77 entity of the state, the federal government, or any political
78 subdivision of either, whose order is also approved by the State
79 Department of Health;
80 (f) The acquisition or otherwise control of any major
81 medical equipment for the provision of medical services; provided,
82 however, (i) the acquisition of any major medical equipment used
83 only for research purposes, and (ii) the acquisition of major
84 medical equipment to replace medical equipment for which a
85 facility is already providing medical services and for which the
86 State Department of Health has been notified before the date of
87 such acquisition shall be exempt from this paragraph; an
88 acquisition for less than fair market value must be reviewed, if
89 the acquisition at fair market value would be subject to review;
90 (g) Changes of ownership of existing health care
91 facilities in which a notice of intent is not filed with the State
92 Department of Health at least thirty (30) days prior to the date
93 such change of ownership occurs, or a change in services or bed
94 capacity as prescribed in paragraph (c) or (d) of this subsection

95 as a result of the change of ownership; an acquisition for less
96 than fair market value must be reviewed, if the acquisition at
97 fair market value would be subject to review;

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

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

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

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

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

126 (a) The department may issue a certificate of need to
127 any person proposing the new construction of any health care

128 facility defined in subparagraphs (iv) and (vi) of Section
129 41-7-173(h) as part of a life care retirement facility, in any
130 county bordering on the Gulf of Mexico in which is located a
131 National Aeronautics and Space Administration facility, not to
132 exceed forty (40) beds. From and after July 1, 1999, there shall
133 be no prohibition or restrictions on participation in the Medicaid
134 program (Section 43-13-101 et seq.) for the beds in the health
135 care facility that were authorized under this paragraph (a).

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

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

161 admits or keeps any patients in the facility who are participating
162 in the Medicaid program, the State Department of Health shall
163 revoke the certificate of need, if it is still outstanding, and
164 shall deny or revoke the license of the skilled nursing facility,
165 at the time that the department determines, after a hearing
166 complying with due process, that the facility has failed to comply
167 with any of the conditions upon which the certificate of need was
168 issued, as provided in this paragraph and in the written agreement
169 by the recipient of the certificate of need. The total number of
170 beds that may be authorized under the authority of this paragraph
171 (c) shall not exceed sixty (60) beds.

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

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

189 (f) The State Department of Health may issue a
190 certificate of need for conversion of a county hospital facility
191 in Itawamba County to a nursing facility, not to exceed sixty (60)
192 beds, including any necessary construction, renovation or
193 expansion. From and after July 1, 1999, there shall be no

194 prohibition or restrictions on participation in the Medicaid
195 program (Section 43-13-101 et seq.) for the beds in the nursing
196 facility that were authorized under this paragraph (f).

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

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

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

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

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

260 participation in the Medicaid program (Section 43-13-101 et seq.)
261 for the beds in the long-term care facilities that were authorized
262 under this paragraph (j).

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

293 (1) Provided that funds are specifically appropriated
294 therefor by the Legislature, the department may issue a
295 certificate of need to a rehabilitation hospital in Hinds County
296 for the construction of a sixty-bed long-term care nursing
297 facility dedicated to the care and treatment of persons with
298 severe disabilities including persons with spinal cord and
299 closed-head injuries and ventilator-dependent patients. The
300 provision of Section 41-7-193(1) regarding substantial compliance
301 with projection of need as reported in the current State Health
302 Plan is hereby waived for the purpose of this paragraph.

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

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

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

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

390 (o) The department may issue a certificate of need for
391 the new construction, addition or conversion of skilled nursing

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

425 months after the effective date of July 1, 2001, the State
426 Department of Health, after a hearing complying with due process,
427 shall revoke the certificate of need if it is still outstanding,
428 and the department shall not issue a license for the nursing
429 facility at any time after the eighteen-month period. Provided,
430 however, that if the issuance of the certificate of need is
431 contested, the department shall require substantial construction
432 of the nursing facility beds within six (6) months after final
433 adjudication on the issuance of the certificate of need.

434 (p) The department may issue a certificate of need for
435 the construction of a municipally-owned nursing facility within
436 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
437 beds, provided that the recipient of the certificate of need
438 agrees in writing that the skilled nursing facility will not at
439 any time participate in the Medicaid program (Section 43-13-101 et
440 seq.) or admit or keep any patients in the skilled nursing
441 facility who are participating in the Medicaid program. This
442 written agreement by the recipient of the certificate of need
443 shall be fully binding on any subsequent owner of the skilled
444 nursing facility, if the ownership of the facility is transferred
445 at any time after the issuance of the certificate of need.
446 Agreement that the skilled nursing facility will not participate
447 in the Medicaid program shall be a condition of the issuance of a
448 certificate of need to any person under this paragraph (p), and if
449 such skilled nursing facility at any time after the issuance of
450 the certificate of need, regardless of the ownership of the
451 facility, participates in the Medicaid program or admits or keeps
452 any patients in the facility who are participating in the Medicaid
453 program, the State Department of Health shall revoke the
454 certificate of need, if it is still outstanding, and shall deny or
455 revoke the license of the skilled nursing facility, at the time
456 that the department determines, after a hearing complying with due
457 process, that the facility has failed to comply with any of the

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

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

490 (ii) Subject to the provisions of subparagraph
491 (v), during each of the next four (4) fiscal years, the department
492 shall issue six (6) certificates of need for new nursing facility
493 beds, as follows: During fiscal years 2000, 2001 and 2002, one
494 (1) certificate of need shall be issued for new nursing facility
495 beds in the county in each of the four (4) Long-Term Care Planning
496 Districts designated in the fiscal year 1999 State Health Plan
497 that has the highest need in the district for those beds; and two
498 (2) certificates of need shall be issued for new nursing facility
499 beds in the two (2) counties from the state at large that have the
500 highest need in the state for those beds, when considering the
501 need on a statewide basis and without regard to the Long-Term Care
502 Planning Districts in which the counties are located. During
503 fiscal year 2003, one (1) certificate of need shall be issued for
504 new nursing facility beds in any county having a need for fifty
505 (50) or more additional nursing facility beds, as shown in the
506 fiscal year 1999 State Health Plan, that has not received a
507 certificate of need under this paragraph (q) during the three (3)
508 previous fiscal years. During fiscal year 2000, in addition to
509 the six (6) certificates of need authorized in this subparagraph,
510 the department also shall issue a certificate of need for new
511 nursing facility beds in Amite County and a certificate of need
512 for new nursing facility beds in Carroll County.

513 (iii) Subject to the provisions of subparagraph
514 (v), the certificate of need issued under subparagraph (ii) for
515 nursing facility beds in each Long-Term Care Planning District
516 during each fiscal year shall first be available for nursing
517 facility beds in the county in the district having the highest
518 need for those beds, as shown in the fiscal year 1999 State Health
519 Plan. If there are no applications for a certificate of need for
520 nursing facility beds in the county having the highest need for
521 those beds by the date specified by the department, then the
522 certificate of need shall be available for nursing facility beds

523 in other counties in the district in descending order of the need
524 for those beds, from the county with the second highest need to
525 the county with the lowest need, until an application is received
526 for nursing facility beds in an eligible county in the district.

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

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

556 any fiscal year of the four-year period, a certificate of need
557 shall not be available again under this paragraph (q) for
558 additional nursing facility beds in that county during the
559 four-year period, and that county shall be excluded in determining
560 which counties have the highest need for nursing facility beds in
561 succeeding fiscal years.

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

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

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

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

586 (ii) Not more than twenty (20) beds may be
587 authorized by any certificate of need issued under this paragraph
588 (r), and not more than a total of sixty (60) beds may be

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

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

609 (s) (i) The State Department of Health may issue a
610 certificate of need for the construction of a nursing facility in
611 an underserved minority ZIP Code area, not to exceed sixty (60)
612 beds. For the purpose of this paragraph (s), the term "minority"
613 means Black, Hispanic, Asian or Pacific Islander, American Indian
614 or Alaskan native; and the term "underserved minority ZIP Code
615 area" means a United States Postal Service ZIP Code area that:

616 1. Has a population of not less than thirty
617 thousand (30,000), according to the 2000 federal decennial census,
618 of which not less than seventy-five percent (75%) of the
619 population in the ZIP Code area are minorities;

620 2. Is wholly or partially located in a county
621 that has a 2005 projected need for not less than four hundred

622 (400) additional nursing facility beds, according to the 2004
623 State Health Plan; and

624 3. Has no existing or approved nonpublic
625 nursing facility located in the ZIP Code area.

626 (ii) If a certificate of need issued under this
627 paragraph (s) authorizes a nursing facility to be constructed in a
628 United States Postal Service ZIP Code area that is located in more
629 than one (1) county, the nursing facility must be constructed in
630 that portion of the ZIP Code area located in the county that has a
631 2005 projected need for not less than four hundred (400)
632 additional nursing facility beds, according to the 2004 State
633 Health Plan.

634 (iii) In the certificate of need review process
635 under this paragraph (s), the department shall give first priority
636 for the certificate of need to applicants that:

637 1. Currently own and operate one (1) nursing
638 facility in the State of Mississippi;

639 2. Have demonstrated a history of quality of
640 care within the preceding twenty-four (24) months, and have not
641 received any of the following sanctions;

642 a. Termination of Medicaid and/or
643 Medicare certification;

644 b. Denial, suspension or revocation of a
645 nursing facility license;

646 c. Cumulative Medicaid and/or Medicare
647 civil monetary penalties totaling more than Five Thousand Dollars
648 (\$5,000.00); or

649 d. Denial of payment for new admissions;
650 and the State Department of Health finds no clear pattern of
651 substantial or repeated state licensure and Medicaid certification
652 sanctions, including administrative penalties and/or other
653 sanctions;

654 3. As of January 1, 2004, have implemented
655 all certificates of need that they, or any partner or co-owner,
656 have previously received;

657 4. Are nonprofit corporations.

658 (3) The State Department of Health may grant approval for
659 and issue certificates of need to any person proposing the new
660 construction of, addition to, conversion of beds of or expansion
661 of any health care facility defined in subparagraph (x)
662 (psychiatric residential treatment facility) of Section
663 41-7-173(h). The total number of beds which may be authorized by
664 such certificates of need shall not exceed three hundred
665 thirty-four (334) beds for the entire state.

666 (a) Of the total number of beds authorized under this
667 subsection, the department shall issue a certificate of need to a
668 privately-owned psychiatric residential treatment facility in
669 Simpson County for the conversion of sixteen (16) intermediate
670 care facility for the mentally retarded (ICF-MR) beds to
671 psychiatric residential treatment facility beds, provided that
672 facility agrees in writing that the facility shall give priority
673 for the use of those sixteen (16) beds to Mississippi residents
674 who are presently being treated in out-of-state facilities.

675 (b) Of the total number of beds authorized under this
676 subsection, the department may issue a certificate or certificates
677 of need for the construction or expansion of psychiatric
678 residential treatment facility beds or the conversion of other
679 beds to psychiatric residential treatment facility beds in Warren
680 County, not to exceed sixty (60) psychiatric residential treatment
681 facility beds, provided that the facility agrees in writing that
682 no more than thirty (30) of the beds at the psychiatric
683 residential treatment facility will be certified for participation
684 in the Medicaid program (Section 43-13-101 et seq.) for the use of
685 any patients other than those who are participating only in the
686 Medicaid program of another state, and that no claim will be

687 submitted to the Division of Medicaid for Medicaid reimbursement
688 for more than thirty (30) patients in the psychiatric residential
689 treatment facility in any day or for any patient in the
690 psychiatric residential treatment facility who is in a bed that is
691 not Medicaid-certified. This written agreement by the recipient
692 of the certificate of need shall be a condition of the issuance of
693 the certificate of need under this paragraph, and the agreement
694 shall be fully binding on any subsequent owner of the psychiatric
695 residential treatment facility if the ownership of the facility is
696 transferred at any time after the issuance of the certificate of
697 need. After this written agreement is executed, the Division of
698 Medicaid and the State Department of Health shall not certify more
699 than thirty (30) of the beds in the psychiatric residential
700 treatment facility for participation in the Medicaid program for
701 the use of any patients other than those who are participating
702 only in the Medicaid program of another state. If the psychiatric
703 residential treatment facility violates the terms of the written
704 agreement by admitting or keeping in the facility on a regular or
705 continuing basis more than thirty (30) patients who are
706 participating in the Mississippi Medicaid program, the State
707 Department of Health shall revoke the license of the facility, at
708 the time that the department determines, after a hearing complying
709 with due process, that the facility has violated the condition
710 upon which the certificate of need was issued, as provided in this
711 paragraph and in the written agreement.

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

716 (c) Of the total number of beds authorized under this
717 subsection, the department shall issue a certificate of need to a
718 hospital currently operating Medicaid-certified acute psychiatric
719 beds for adolescents in DeSoto County, for the establishment of a

720 forty-bed psychiatric residential treatment facility in DeSoto
721 County, provided that the hospital agrees in writing (i) that the
722 hospital shall give priority for the use of those forty (40) beds
723 to Mississippi residents who are presently being treated in
724 out-of-state facilities, and (ii) that no more than fifteen (15)
725 of the beds at the psychiatric residential treatment facility will
726 be certified for participation in the Medicaid program (Section
727 43-13-101 et seq.), and that no claim will be submitted for
728 Medicaid reimbursement for more than fifteen (15) patients in the
729 psychiatric residential treatment facility in any day or for any
730 patient in the psychiatric residential treatment facility who is
731 in a bed that is not Medicaid-certified. This written agreement
732 by the recipient of the certificate of need shall be a condition
733 of the issuance of the certificate of need under this paragraph,
734 and the agreement shall be fully binding on any subsequent owner
735 of the psychiatric residential treatment facility if the ownership
736 of the facility is transferred at any time after the issuance of
737 the certificate of need. After this written agreement is
738 executed, the Division of Medicaid and the State Department of
739 Health shall not certify more than fifteen (15) of the beds in the
740 psychiatric residential treatment facility for participation in
741 the Medicaid program. If the psychiatric residential treatment
742 facility violates the terms of the written agreement by admitting
743 or keeping in the facility on a regular or continuing basis more
744 than fifteen (15) patients who are participating in the Medicaid
745 program, the State Department of Health shall revoke the license
746 of the facility, at the time that the department determines, after
747 a hearing complying with due process, that the facility has
748 violated the condition upon which the certificate of need was
749 issued, as provided in this paragraph and in the written
750 agreement.

751 (d) Of the total number of beds authorized under this
752 subsection, the department may issue a certificate or certificates

753 of need for the construction or expansion of psychiatric
754 residential treatment facility beds or the conversion of other
755 beds to psychiatric treatment facility beds, not to exceed thirty
756 (30) psychiatric residential treatment facility beds, in either
757 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
758 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

759 (e) Of the total number of beds authorized under this
760 subsection (3) the department shall issue a certificate of need to
761 a privately-owned, nonprofit psychiatric residential treatment
762 facility in Hinds County for an eight-bed expansion of the
763 facility, provided that the facility agrees in writing that the
764 facility shall give priority for the use of those eight (8) beds
765 to Mississippi residents who are presently being treated in
766 out-of-state facilities.

767 (f) The department shall issue a certificate of need to
768 a one-hundred-thirty-four-bed specialty hospital located on
769 twenty-nine and forty-four one-hundredths (29.44) commercial acres
770 at 5900 Highway 39 North in Meridian (Lauderdale County),
771 Mississippi, for the addition, construction or expansion of
772 child/adolescent psychiatric residential treatment facility beds
773 in Lauderdale County. As a condition of issuance of the
774 certificate of need under this paragraph, the facility shall give
775 priority in admissions to the child/adolescent psychiatric
776 residential treatment facility beds authorized under this
777 paragraph to patients who otherwise would require out-of-state
778 placement. The Division of Medicaid, in conjunction with the
779 Department of Human Services, shall furnish the facility a list of
780 all out-of-state patients on a quarterly basis. Furthermore,
781 notice shall also be provided to the parent, custodial parent or
782 guardian of each out-of-state patient notifying them of the
783 priority status granted by this paragraph. For purposes of this
784 paragraph, the provisions of Section 41-7-193(1) requiring
785 substantial compliance with the projection of need as reported in

786 the current State Health Plan are waived. The total number of
787 child/adolescent psychiatric residential treatment facility beds
788 that may be authorized under the authority of this paragraph shall
789 be sixty (60) beds. There shall be no prohibition or restrictions
790 on participation in the Medicaid program (Section 43-13-101 et
791 seq.) for the person receiving the certificate of need authorized
792 under this paragraph or for the beds converted pursuant to the
793 authority of that certificate of need.

794 (4) (a) From and after July 1, 1993, the department shall
795 not issue a certificate of need to any person for the new
796 construction of any hospital, psychiatric hospital or chemical
797 dependency hospital that will contain any child/adolescent
798 psychiatric or child/adolescent chemical dependency beds, or for
799 the conversion of any other health care facility to a hospital,
800 psychiatric hospital or chemical dependency hospital that will
801 contain any child/adolescent psychiatric or child/adolescent
802 chemical dependency beds, or for the addition of any
803 child/adolescent psychiatric or child/adolescent chemical
804 dependency beds in any hospital, psychiatric hospital or chemical
805 dependency hospital, or for the conversion of any beds of another
806 category in any hospital, psychiatric hospital or chemical
807 dependency hospital to child/adolescent psychiatric or
808 child/adolescent chemical dependency beds, except as hereinafter
809 authorized:

810 (i) The department may issue certificates of need
811 to any person for any purpose described in this subsection,
812 provided that the hospital, psychiatric hospital or chemical
813 dependency hospital does not participate in the Medicaid program
814 (Section 43-13-101 et seq.) at the time of the application for the
815 certificate of need and the owner of the hospital, psychiatric
816 hospital or chemical dependency hospital agrees in writing that
817 the hospital, psychiatric hospital or chemical dependency hospital
818 will not at any time participate in the Medicaid program or admit

819 or keep any patients who are participating in the Medicaid program
820 in the hospital, psychiatric hospital or chemical dependency
821 hospital. This written agreement by the recipient of the
822 certificate of need shall be fully binding on any subsequent owner
823 of the hospital, psychiatric hospital or chemical dependency
824 hospital, if the ownership of the facility is transferred at any
825 time after the issuance of the certificate of need. Agreement
826 that the hospital, psychiatric hospital or chemical dependency
827 hospital will not participate in the Medicaid program shall be a
828 condition of the issuance of a certificate of need to any person
829 under this subparagraph (a)(i), and if such hospital, psychiatric
830 hospital or chemical dependency hospital at any time after the
831 issuance of the certificate of need, regardless of the ownership
832 of the facility, participates in the Medicaid program or admits or
833 keeps any patients in the hospital, psychiatric hospital or
834 chemical dependency hospital who are participating in the Medicaid
835 program, the State Department of Health shall revoke the
836 certificate of need, if it is still outstanding, and shall deny or
837 revoke the license of the hospital, psychiatric hospital or
838 chemical dependency hospital, at the time that the department
839 determines, after a hearing complying with due process, that the
840 hospital, psychiatric hospital or chemical dependency hospital has
841 failed to comply with any of the conditions upon which the
842 certificate of need was issued, as provided in this subparagraph
843 and in the written agreement by the recipient of the certificate
844 of need.

845 (ii) The department may issue a certificate of
846 need for the conversion of existing beds in a county hospital in
847 Choctaw County from acute care beds to child/adolescent chemical
848 dependency beds. For purposes of this subparagraph, the
849 provisions of Section 41-7-193(1) requiring substantial compliance
850 with the projection of need as reported in the current State
851 Health Plan is waived. The total number of beds that may be

852 authorized under authority of this subparagraph shall not exceed
853 twenty (20) beds. There shall be no prohibition or restrictions
854 on participation in the Medicaid program (Section 43-13-101 et
855 seq.) for the hospital receiving the certificate of need
856 authorized under this subparagraph (a)(ii) or for the beds
857 converted pursuant to the authority of that certificate of need.

858 (iii) The department may issue a certificate or
859 certificates of need for the construction or expansion of
860 child/adolescent psychiatric beds or the conversion of other beds
861 to child/adolescent psychiatric beds in Warren County. For
862 purposes of this subparagraph, the provisions of Section
863 41-7-193(1) requiring substantial compliance with the projection
864 of need as reported in the current State Health Plan are waived.
865 The total number of beds that may be authorized under the
866 authority of this subparagraph shall not exceed twenty (20) beds.
867 There shall be no prohibition or restrictions on participation in
868 the Medicaid program (Section 43-13-101 et seq.) for the person
869 receiving the certificate of need authorized under this
870 subparagraph (a)(iii) or for the beds converted pursuant to the
871 authority of that certificate of need.

872 If by January 1, 2002, there has been no significant
873 commencement of construction of the beds authorized under this
874 subparagraph (a)(iii), or no significant action taken to convert
875 existing beds to the beds authorized under this subparagraph, then
876 the certificate of need that was previously issued under this
877 subparagraph shall expire. If the previously issued certificate
878 of need expires, the department may accept applications for
879 issuance of another certificate of need for the beds authorized
880 under this subparagraph, and may issue a certificate of need to
881 authorize the construction, expansion or conversion of the beds
882 authorized under this subparagraph.

883 (iv) The department shall issue a certificate of
884 need to the Region 7 Mental Health/Retardation Commission for the

885 construction or expansion of child/adolescent psychiatric beds or
886 the conversion of other beds to child/adolescent psychiatric beds
887 in any of the counties served by the commission. For purposes of
888 this subparagraph, the provisions of Section 41-7-193(1) requiring
889 substantial compliance with the projection of need as reported in
890 the current State Health Plan is waived. The total number of beds
891 that may be authorized under the authority of this subparagraph
892 shall not exceed twenty (20) beds. There shall be no prohibition
893 or restrictions on participation in the Medicaid program (Section
894 43-13-101 et seq.) for the person receiving the certificate of
895 need authorized under this subparagraph (a)(iv) or for the beds
896 converted pursuant to the authority of that certificate of need.

897 (v) The department may issue a certificate of need
898 to any county hospital located in Leflore County for the
899 construction or expansion of adult psychiatric beds or the
900 conversion of other beds to adult psychiatric beds, not to exceed
901 twenty (20) beds, provided that the recipient of the certificate
902 of need agrees in writing that the adult psychiatric beds will not
903 at any time be certified for participation in the Medicaid program
904 and that the hospital will not admit or keep any patients who are
905 participating in the Medicaid program in any of such adult
906 psychiatric beds. This written agreement by the recipient of the
907 certificate of need shall be fully binding on any subsequent owner
908 of the hospital if the ownership of the hospital is transferred at
909 any time after the issuance of the certificate of need. Agreement
910 that the adult psychiatric beds will not be certified for
911 participation in the Medicaid program shall be a condition of the
912 issuance of a certificate of need to any person under this
913 subparagraph (a)(v), and if such hospital at any time after the
914 issuance of the certificate of need, regardless of the ownership
915 of the hospital, has any of such adult psychiatric beds certified
916 for participation in the Medicaid program or admits or keeps any
917 Medicaid patients in such adult psychiatric beds, the State

918 Department of Health shall revoke the certificate of need, if it
919 is still outstanding, and shall deny or revoke the license of the
920 hospital at the time that the department determines, after a
921 hearing complying with due process, that the hospital has failed
922 to comply with any of the conditions upon which the certificate of
923 need was issued, as provided in this subparagraph and in the
924 written agreement by the recipient of the certificate of need.

925 (vi) The department may issue a certificate or
926 certificates of need for the expansion of child psychiatric beds
927 or the conversion of other beds to child psychiatric beds at the
928 University of Mississippi Medical Center. For purposes of this
929 subparagraph (a)(vi), the provision of Section 41-7-193(1)
930 requiring substantial compliance with the projection of need as
931 reported in the current State Health Plan is waived. The total
932 number of beds that may be authorized under the authority of this
933 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
934 shall be no prohibition or restrictions on participation in the
935 Medicaid program (Section 43-13-101 et seq.) for the hospital
936 receiving the certificate of need authorized under this
937 subparagraph (a)(vi) or for the beds converted pursuant to the
938 authority of that certificate of need.

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

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

949 (6) The State Department of Health shall issue a certificate
950 of need to a Mississippi corporation qualified to manage a

951 long-term care hospital as defined in Section 41-7-173(h)(xii) in
952 Harrison County, not to exceed eighty (80) beds, including any
953 necessary renovation or construction required for licensure and
954 certification, provided that the recipient of the certificate of
955 need agrees in writing that the long-term care hospital will not
956 at any time participate in the Medicaid program (Section 43-13-101
957 et seq.) or admit or keep any patients in the long-term care
958 hospital who are participating in the Medicaid program. This
959 written agreement by the recipient of the certificate of need
960 shall be fully binding on any subsequent owner of the long-term
961 care hospital, if the ownership of the facility is transferred at
962 any time after the issuance of the certificate of need. Agreement
963 that the long-term care hospital will not participate in the
964 Medicaid program shall be a condition of the issuance of a
965 certificate of need to any person under this subsection (6), and
966 if such long-term care hospital at any time after the issuance of
967 the certificate of need, regardless of the ownership of the
968 facility, participates in the Medicaid program or admits or keeps
969 any patients in the facility who are participating in the Medicaid
970 program, the State Department of Health shall revoke the
971 certificate of need, if it is still outstanding, and shall deny or
972 revoke the license of the long-term care hospital, at the time
973 that the department determines, after a hearing complying with due
974 process, that the facility has failed to comply with any of the
975 conditions upon which the certificate of need was issued, as
976 provided in this subsection and in the written agreement by the
977 recipient of the certificate of need. For purposes of this
978 subsection, the provision of Section 41-7-193(1) requiring
979 substantial compliance with the projection of need as reported in
980 the current State Health Plan is hereby waived.

981 (7) The State Department of Health may issue a certificate
982 of need to any hospital in the state to utilize a portion of its
983 beds for the "swing-bed" concept. Any such hospital must be in

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

1017 that the hospital has failed to comply with any of those
1018 requirements.

1019 (8) The Department of Health shall not grant approval for or
1020 issue a certificate of need to any person proposing the new
1021 construction of, addition to or expansion of a health care
1022 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1023 (9) The Department of Health shall not grant approval for or
1024 issue a certificate of need to any person proposing the
1025 establishment of, or expansion of the currently approved territory
1026 of, or the contracting to establish a home office, subunit or
1027 branch office within the space operated as a health care facility
1028 as defined in Section 41-7-173(h)(i) through (viii) by a health
1029 care facility as defined in subparagraph (ix) of Section
1030 41-7-173(h).

1031 (10) Health care facilities owned and/or operated by the
1032 state or its agencies are exempt from the restraints in this
1033 section against issuance of a certificate of need if such addition
1034 or expansion consists of repairing or renovation necessary to
1035 comply with the state licensure law. This exception shall not
1036 apply to the new construction of any building by such state
1037 facility. This exception shall not apply to any health care
1038 facilities owned and/or operated by counties, municipalities,
1039 districts, unincorporated areas, other defined persons, or any
1040 combination thereof.

1041 (11) The new construction, renovation or expansion of or
1042 addition to any health care facility defined in subparagraph (ii)
1043 (psychiatric hospital), subparagraph (iv) (skilled nursing
1044 facility), subparagraph (vi) (intermediate care facility),
1045 subparagraph (viii) (intermediate care facility for the mentally
1046 retarded) and subparagraph (x) (psychiatric residential treatment
1047 facility) of Section 41-7-173(h) which is owned by the State of
1048 Mississippi and under the direction and control of the State
1049 Department of Mental Health, and the addition of new beds or the

1050 conversion of beds from one category to another in any such
1051 defined health care facility which is owned by the State of
1052 Mississippi and under the direction and control of the State
1053 Department of Mental Health, shall not require the issuance of a
1054 certificate of need under Section 41-7-171 et seq.,
1055 notwithstanding any provision in Section 41-7-171 et seq. to the
1056 contrary.

1057 (12) The new construction, renovation or expansion of or
1058 addition to any veterans homes or domiciliaries for eligible
1059 veterans of the State of Mississippi as authorized under Section
1060 35-1-19 shall not require the issuance of a certificate of need,
1061 notwithstanding any provision in Section 41-7-171 et seq. to the
1062 contrary.

1063 (13) The new construction of a nursing facility or nursing
1064 facility beds or the conversion of other beds to nursing facility
1065 beds shall not require the issuance of a certificate of need,
1066 notwithstanding any provision in Section 41-7-171 et seq. to the
1067 contrary, if the conditions of this subsection are met.

1068 (a) Before any construction or conversion may be
1069 undertaken without a certificate of need, the owner of the nursing
1070 facility, in the case of an existing facility, or the applicant to
1071 construct a nursing facility, in the case of new construction,
1072 first must file a written notice of intent and sign a written
1073 agreement with the State Department of Health that the entire
1074 nursing facility will not at any time participate in or have any
1075 beds certified for participation in the Medicaid program (Section
1076 43-13-101 et seq.), will not admit or keep any patients in the
1077 nursing facility who are participating in the Medicaid program,
1078 and will not submit any claim for Medicaid reimbursement for any
1079 patient in the facility. This written agreement by the owner or
1080 applicant shall be a condition of exercising the authority under
1081 this subsection without a certificate of need, and the agreement
1082 shall be fully binding on any subsequent owner of the nursing

1083 facility if the ownership of the facility is transferred at any
1084 time after the agreement is signed. After the written agreement
1085 is signed, the Division of Medicaid and the State Department of
1086 Health shall not certify any beds in the nursing facility for
1087 participation in the Medicaid program. If the nursing facility
1088 violates the terms of the written agreement by participating in
1089 the Medicaid program, having any beds certified for participation
1090 in the Medicaid program, admitting or keeping any patient in the
1091 facility who is participating in the Medicaid program, or
1092 submitting any claim for Medicaid reimbursement for any patient in
1093 the facility, the State Department of Health shall revoke the
1094 license of the nursing facility at the time that the department
1095 determines, after a hearing complying with due process, that the
1096 facility has violated the terms of the written agreement.

1097 (b) For the purposes of this subsection, participation
1098 in the Medicaid program by a nursing facility includes Medicaid
1099 reimbursement of coinsurance and deductibles for recipients who
1100 are qualified Medicare beneficiaries and/or those who are dually
1101 eligible. Any nursing facility exercising the authority under
1102 this subsection may not bill or submit a claim to the Division of
1103 Medicaid for services to qualified Medicare beneficiaries and/or
1104 those who are dually eligible.

1105 (c) The new construction of a nursing facility or
1106 nursing facility beds or the conversion of other beds to nursing
1107 facility beds described in this section must be either a part of a
1108 completely new continuing care retirement community, as described
1109 in the latest edition of the Mississippi State Health Plan, or an
1110 addition to existing personal care and independent living
1111 components, and so that the completed project will be a continuing
1112 care retirement community, containing (i) independent living
1113 accommodations, (ii) personal care beds, and (iii) the nursing
1114 home facility beds. The three (3) components must be located on a
1115 single site and be operated as one (1) inseparable facility. The

1116 nursing facility component must contain a minimum of thirty (30)
1117 beds. Any nursing facility beds authorized by this section will
1118 not be counted against the bed need set forth in the State Health
1119 Plan, as identified in Section 41-7-171 et seq.

1120 This subsection (13) shall stand repealed from and after July
1121 1, 2005.

1122 (14) The State Department of Health shall issue a
1123 certificate of need to any hospital which is currently licensed
1124 for two hundred fifty (250) or more acute care beds and is located
1125 in any general hospital service area not having a comprehensive
1126 cancer center, for the establishment and equipping of such a
1127 center which provides facilities and services for outpatient
1128 radiation oncology therapy, outpatient medical oncology therapy,
1129 and appropriate support services including the provision of
1130 radiation therapy services. The provision of Section 41-7-193(1)
1131 regarding substantial compliance with the projection of need as
1132 reported in the current State Health Plan is waived for the
1133 purpose of this subsection.

1134 (15) The State Department of Health may authorize the
1135 transfer of hospital beds, not to exceed sixty (60) beds, from the
1136 North Panola Community Hospital to the South Panola Community
1137 Hospital. The authorization for the transfer of those beds shall
1138 be exempt from the certificate of need review process.

1139 (16) Nothing in this section or in any other provision of
1140 Section 41-7-171 et seq. shall prevent any nursing facility from
1141 designating an appropriate number of existing beds in the facility
1142 as beds for providing care exclusively to patients with
1143 Alzheimer's disease.

1144 **SECTION 2.** This act shall take effect and be in force from
1145 and after July 1, 2004.