

By: Representative Smith (39th)

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1025

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH MAY ISSUE  
3 CERTIFICATES OF NEED TO CERTAIN HOSPITALS FOR THE PURPOSE OF  
4 CONVERTING UNUSED BEDS TO NURSING HOME BEDS; AND FOR RELATED  
5 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) The State Department of Health may issue  
610 certificates of need to hospitals with existing hospital-based  
611 nursing homes authorizing the hospitals to convert a limited  
612 number of the hospital's licensed but vacant acute care beds to  
613 licensed nursing home beds upon the showing of the following:

614 (i) The occupancy rate in the existing  
615 hospital-based nursing home facility has equaled or exceeded  
616 ninety percent (90%) over the nursing home facility's two (2) most  
617 recent fiscal years;

618 (ii) The conversion of licensed but vacant acute  
619 care beds is for no more than the greater of ten (10) beds or the  
620 number of beds needed to expand the hospital-owned nursing home up  
621 to sixty (60) beds;

622                   (iii) The hospital-based nursing home has not  
623 added any new nursing home beds or received a certificate of need  
624 to add any new nursing home beds to its hospital-based nursing  
625 home, whether through conversion of the hospital's licensed but  
626 vacant acute care beds, acquisition of existing nursing home beds  
627 or addition of new nursing home beds, within the two (2) year  
628 period immediately preceding the filing of an application for a  
629 certificate of need under this paragraph (s); and

630                   (iv) The current State Health Plan at the time of  
631 application shows a need for the nursing home beds.

632           (3) The State Department of Health may grant approval for  
633 and issue certificates of need to any person proposing the new  
634 construction of, addition to, conversion of beds of or expansion  
635 of any health care facility defined in subparagraph (x)  
636 (psychiatric residential treatment facility) of Section  
637 41-7-173(h). The total number of beds which may be authorized by  
638 such certificates of need shall not exceed three hundred  
639 thirty-four (334) beds for the entire state.

640           (a) Of the total number of beds authorized under this  
641 subsection, the department shall issue a certificate of need to a  
642 privately-owned psychiatric residential treatment facility in  
643 Simpson County for the conversion of sixteen (16) intermediate  
644 care facility for the mentally retarded (ICF-MR) beds to  
645 psychiatric residential treatment facility beds, provided that  
646 facility agrees in writing that the facility shall give priority  
647 for the use of those sixteen (16) beds to Mississippi residents  
648 who are presently being treated in out-of-state facilities.

649           (b) Of the total number of beds authorized under this  
650 subsection, the department may issue a certificate or certificates  
651 of need for the construction or expansion of psychiatric  
652 residential treatment facility beds or the conversion of other  
653 beds to psychiatric residential treatment facility beds in Warren  
654 County, not to exceed sixty (60) psychiatric residential treatment

655 facility beds, provided that the facility agrees in writing that  
656 no more than thirty (30) of the beds at the psychiatric  
657 residential treatment facility will be certified for participation  
658 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
659 any patients other than those who are participating only in the  
660 Medicaid program of another state, and that no claim will be  
661 submitted to the Division of Medicaid for Medicaid reimbursement  
662 for more than thirty (30) patients in the psychiatric residential  
663 treatment facility in any day or for any patient in the  
664 psychiatric residential treatment facility who is in a bed that is  
665 not Medicaid-certified. This written agreement by the recipient  
666 of the certificate of need shall be a condition of the issuance of  
667 the certificate of need under this paragraph, and the agreement  
668 shall be fully binding on any subsequent owner of the psychiatric  
669 residential treatment facility if the ownership of the facility is  
670 transferred at any time after the issuance of the certificate of  
671 need. After this written agreement is executed, the Division of  
672 Medicaid and the State Department of Health shall not certify more  
673 than thirty (30) of the beds in the psychiatric residential  
674 treatment facility for participation in the Medicaid program for  
675 the use of any patients other than those who are participating  
676 only in the Medicaid program of another state. If the psychiatric  
677 residential treatment facility violates the terms of the written  
678 agreement by admitting or keeping in the facility on a regular or  
679 continuing basis more than thirty (30) patients who are  
680 participating in the Mississippi Medicaid program, the State  
681 Department of Health shall revoke the license of the facility, at  
682 the time that the department determines, after a hearing complying  
683 with due process, that the facility has violated the condition  
684 upon which the certificate of need was issued, as provided in this  
685 paragraph and in the written agreement.

686         The State Department of Health, on or before July 1, 2002,  
687 shall transfer the certificate of need authorized under the

688 authority of this paragraph (b), or reissue the certificate of  
689 need if it has expired, to River Region Health System.

690 (c) Of the total number of beds authorized under this  
691 subsection, the department shall issue a certificate of need to a  
692 hospital currently operating Medicaid-certified acute psychiatric  
693 beds for adolescents in DeSoto County, for the establishment of a  
694 forty-bed psychiatric residential treatment facility in DeSoto  
695 County, provided that the hospital agrees in writing (i) that the  
696 hospital shall give priority for the use of those forty (40) beds  
697 to Mississippi residents who are presently being treated in  
698 out-of-state facilities, and (ii) that no more than fifteen (15)  
699 of the beds at the psychiatric residential treatment facility will  
700 be certified for participation in the Medicaid program (Section  
701 43-13-101 et seq.), and that no claim will be submitted for  
702 Medicaid reimbursement for more than fifteen (15) patients in the  
703 psychiatric residential treatment facility in any day or for any  
704 patient in the psychiatric residential treatment facility who is  
705 in a bed that is not Medicaid-certified. This written agreement  
706 by the recipient of the certificate of need shall be a condition  
707 of the issuance of the certificate of need under this paragraph,  
708 and the agreement shall be fully binding on any subsequent owner  
709 of the psychiatric residential treatment facility if the ownership  
710 of the facility is transferred at any time after the issuance of  
711 the certificate of need. After this written agreement is  
712 executed, the Division of Medicaid and the State Department of  
713 Health shall not certify more than fifteen (15) of the beds in the  
714 psychiatric residential treatment facility for participation in  
715 the Medicaid program. If the psychiatric residential treatment  
716 facility violates the terms of the written agreement by admitting  
717 or keeping in the facility on a regular or continuing basis more  
718 than fifteen (15) patients who are participating in the Medicaid  
719 program, the State Department of Health shall revoke the license  
720 of the facility, at the time that the department determines, after

721 a hearing complying with due process, that the facility has  
722 violated the condition upon which the certificate of need was  
723 issued, as provided in this paragraph and in the written  
724 agreement.

725 (d) Of the total number of beds authorized under this  
726 subsection, the department may issue a certificate or certificates  
727 of need for the construction or expansion of psychiatric  
728 residential treatment facility beds or the conversion of other  
729 beds to psychiatric treatment facility beds, not to exceed thirty  
730 (30) psychiatric residential treatment facility beds, in either  
731 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
732 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

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

741 (f) The department shall issue a certificate of need to  
742 a one-hundred-thirty-four-bed specialty hospital located on  
743 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
744 at 5900 Highway 39 North in Meridian (Lauderdale County),  
745 Mississippi, for the addition, construction or expansion of  
746 child/adolescent psychiatric residential treatment facility beds  
747 in Lauderdale County. As a condition of issuance of the  
748 certificate of need under this paragraph, the facility shall give  
749 priority in admissions to the child/adolescent psychiatric  
750 residential treatment facility beds authorized under this  
751 paragraph to patients who otherwise would require out-of-state  
752 placement. The Division of Medicaid, in conjunction with the  
753 Department of Human Services, shall furnish the facility a list of

754 all out-of-state patients on a quarterly basis. Furthermore,  
755 notice shall also be provided to the parent, custodial parent or  
756 guardian of each out-of-state patient notifying them of the  
757 priority status granted by this paragraph. For purposes of this  
758 paragraph, the provisions of Section 41-7-193(1) requiring  
759 substantial compliance with the projection of need as reported in  
760 the current State Health Plan are waived. The total number of  
761 child/adolescent psychiatric residential treatment facility beds  
762 that may be authorized under the authority of this paragraph shall  
763 be sixty (60) beds. There shall be no prohibition or restrictions  
764 on participation in the Medicaid program (Section 43-13-101 et  
765 seq.) for the person receiving the certificate of need authorized  
766 under this paragraph or for the beds converted pursuant to the  
767 authority of that certificate of need.

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

784 (i) The department may issue certificates of need  
785 to any person for any purpose described in this subsection,  
786 provided that the hospital, psychiatric hospital or chemical



787 dependency hospital does not participate in the Medicaid program  
788 (Section 43-13-101 et seq.) at the time of the application for the  
789 certificate of need and the owner of the hospital, psychiatric  
790 hospital or chemical dependency hospital agrees in writing that  
791 the hospital, psychiatric hospital or chemical dependency hospital  
792 will not at any time participate in the Medicaid program or admit  
793 or keep any patients who are participating in the Medicaid program  
794 in the hospital, psychiatric hospital or chemical dependency  
795 hospital. This written agreement by the recipient of the  
796 certificate of need shall be fully binding on any subsequent owner  
797 of the hospital, psychiatric hospital or chemical dependency  
798 hospital, if the ownership of the facility is transferred at any  
799 time after the issuance of the certificate of need. Agreement  
800 that the hospital, psychiatric hospital or chemical dependency  
801 hospital will not participate in the Medicaid program shall be a  
802 condition of the issuance of a certificate of need to any person  
803 under this subparagraph (a)(i), and if such hospital, psychiatric  
804 hospital or chemical dependency hospital at any time after the  
805 issuance of the certificate of need, regardless of the ownership  
806 of the facility, participates in the Medicaid program or admits or  
807 keeps any patients in the hospital, psychiatric hospital or  
808 chemical dependency hospital who are participating in the Medicaid  
809 program, the State Department of Health shall revoke the  
810 certificate of need, if it is still outstanding, and shall deny or  
811 revoke the license of the hospital, psychiatric hospital or  
812 chemical dependency hospital, at the time that the department  
813 determines, after a hearing complying with due process, that the  
814 hospital, psychiatric hospital or chemical dependency hospital has  
815 failed to comply with any of the conditions upon which the  
816 certificate of need was issued, as provided in this subparagraph  
817 and in the written agreement by the recipient of the certificate  
818 of need.

819                   (ii) The department may issue a certificate of  
820 need for the conversion of existing beds in a county hospital in  
821 Choctaw County from acute care beds to child/adolescent chemical  
822 dependency beds. For purposes of this subparagraph, the  
823 provisions of Section 41-7-193(1) requiring substantial compliance  
824 with the projection of need as reported in the current State  
825 Health Plan is waived. The total number of beds that may be  
826 authorized under authority of this subparagraph shall not exceed  
827 twenty (20) beds. There shall be no prohibition or restrictions  
828 on participation in the Medicaid program (Section 43-13-101 et  
829 seq.) for the hospital receiving the certificate of need  
830 authorized under this subparagraph (a)(ii) or for the beds  
831 converted pursuant to the authority of that certificate of need.

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

846           If by January 1, 2002, there has been no significant  
847 commencement of construction of the beds authorized under this  
848 subparagraph (a)(iii), or no significant action taken to convert  
849 existing beds to the beds authorized under this subparagraph, then  
850 the certificate of need that was previously issued under this  
851 subparagraph shall expire. If the previously issued certificate

852 of need expires, the department may accept applications for  
853 issuance of another certificate of need for the beds authorized  
854 under this subparagraph, and may issue a certificate of need to  
855 authorize the construction, expansion or conversion of the beds  
856 authorized under this subparagraph.

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

871 (v) The department may issue a certificate of need  
872 to any county hospital located in Leflore County for the  
873 construction or expansion of adult psychiatric beds or the  
874 conversion of other beds to adult psychiatric beds, not to exceed  
875 twenty (20) beds, provided that the recipient of the certificate  
876 of need agrees in writing that the adult psychiatric beds will not  
877 at any time be certified for participation in the Medicaid program  
878 and that the hospital will not admit or keep any patients who are  
879 participating in the Medicaid program in any of such adult  
880 psychiatric beds. This written agreement by the recipient of the  
881 certificate of need shall be fully binding on any subsequent owner  
882 of the hospital if the ownership of the hospital is transferred at  
883 any time after the issuance of the certificate of need. Agreement  
884 that the adult psychiatric beds will not be certified for

885 participation in the Medicaid program shall be a condition of the  
886 issuance of a certificate of need to any person under this  
887 subparagraph (a)(v), and if such hospital at any time after the  
888 issuance of the certificate of need, regardless of the ownership  
889 of the hospital, has any of such adult psychiatric beds certified  
890 for participation in the Medicaid program or admits or keeps any  
891 Medicaid patients in such adult psychiatric beds, the State  
892 Department of Health shall revoke the certificate of need, if it  
893 is still outstanding, and shall deny or revoke the license of the  
894 hospital at the time that the department determines, after a  
895 hearing complying with due process, that the hospital has failed  
896 to comply with any of the conditions upon which the certificate of  
897 need was issued, as provided in this subparagraph and in the  
898 written agreement by the recipient of the certificate of need.

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

913           (b) From and after July 1, 1990, no hospital,  
914 psychiatric hospital or chemical dependency hospital shall be  
915 authorized to add any child/adolescent psychiatric or  
916 child/adolescent chemical dependency beds or convert any beds of  
917 another category to child/adolescent psychiatric or

918 child/adolescent chemical dependency beds without a certificate of  
919 need under the authority of subsection (1)(c) of this section.

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

923 (6) The State Department of Health shall issue a certificate  
924 of need to a Mississippi corporation qualified to manage a  
925 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
926 Harrison County, not to exceed eighty (80) beds, including any  
927 necessary renovation or construction required for licensure and  
928 certification, provided that the recipient of the certificate of  
929 need agrees in writing that the long-term care hospital will not  
930 at any time participate in the Medicaid program (Section 43-13-101  
931 et seq.) or admit or keep any patients in the long-term care  
932 hospital who are participating in the Medicaid program. This  
933 written agreement by the recipient of the certificate of need  
934 shall be fully binding on any subsequent owner of the long-term  
935 care hospital, if the ownership of the facility is transferred at  
936 any time after the issuance of the certificate of need. Agreement  
937 that the long-term care hospital will not participate in the  
938 Medicaid program shall be a condition of the issuance of a  
939 certificate of need to any person under this subsection (6), and  
940 if such long-term care hospital at any time after the issuance of  
941 the certificate of need, regardless of the ownership of the  
942 facility, participates in the Medicaid program or admits or keeps  
943 any patients in the facility who are participating in the Medicaid  
944 program, the State Department of Health shall revoke the  
945 certificate of need, if it is still outstanding, and shall deny or  
946 revoke the license of the long-term care hospital, at the time  
947 that the department determines, after a hearing complying with due  
948 process, that the facility has failed to comply with any of the  
949 conditions upon which the certificate of need was issued, as  
950 provided in this subsection and in the written agreement by the

951 recipient of the certificate of need. For purposes of this  
952 subsection, the provision of Section 41-7-193(1) requiring  
953 substantial compliance with the projection of need as reported in  
954 the current State Health Plan is hereby waived.

955 (7) The State Department of Health may issue a certificate  
956 of need to any hospital in the state to utilize a portion of its  
957 beds for the "swing-bed" concept. Any such hospital must be in  
958 conformance with the federal regulations regarding such swing-bed  
959 concept at the time it submits its application for a certificate  
960 of need to the State Department of Health, except that such  
961 hospital may have more licensed beds or a higher average daily  
962 census (ADC) than the maximum number specified in federal  
963 regulations for participation in the swing-bed program. Any  
964 hospital meeting all federal requirements for participation in the  
965 swing-bed program which receives such certificate of need shall  
966 render services provided under the swing-bed concept to any  
967 patient eligible for Medicare (Title XVIII of the Social Security  
968 Act) who is certified by a physician to be in need of such  
969 services, and no such hospital shall permit any patient who is  
970 eligible for both Medicaid and Medicare or eligible only for  
971 Medicaid to stay in the swing beds of the hospital for more than  
972 thirty (30) days per admission unless the hospital receives prior  
973 approval for such patient from the Division of Medicaid, Office of  
974 the Governor. Any hospital having more licensed beds or a higher  
975 average daily census (ADC) than the maximum number specified in  
976 federal regulations for participation in the swing-bed program  
977 which receives such certificate of need shall develop a procedure  
978 to insure that before a patient is allowed to stay in the swing  
979 beds of the hospital, there are no vacant nursing home beds  
980 available for that patient located within a fifty-mile radius of  
981 the hospital. When any such hospital has a patient staying in the  
982 swing beds of the hospital and the hospital receives notice from a  
983 nursing home located within such radius that there is a vacant bed

984 available for that patient, the hospital shall transfer the  
985 patient to the nursing home within a reasonable time after receipt  
986 of the notice. Any hospital which is subject to the requirements  
987 of the two (2) preceding sentences of this subsection may be  
988 suspended from participation in the swing-bed program for a  
989 reasonable period of time by the State Department of Health if the  
990 department, after a hearing complying with due process, determines  
991 that the hospital has failed to comply with any of those  
992 requirements.

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

997 (9) The Department of Health shall not grant approval for or  
998 issue a certificate of need to any person proposing the  
999 establishment of, or expansion of the currently approved territory  
1000 of, or the contracting to establish a home office, subunit or  
1001 branch office within the space operated as a health care facility  
1002 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1003 care facility as defined in subparagraph (ix) of Section  
1004 41-7-173(h).

1005 (10) Health care facilities owned and/or operated by the  
1006 state or its agencies are exempt from the restraints in this  
1007 section against issuance of a certificate of need if such addition  
1008 or expansion consists of repairing or renovation necessary to  
1009 comply with the state licensure law. This exception shall not  
1010 apply to the new construction of any building by such state  
1011 facility. This exception shall not apply to any health care  
1012 facilities owned and/or operated by counties, municipalities,  
1013 districts, unincorporated areas, other defined persons, or any  
1014 combination thereof.

1015 (11) The new construction, renovation or expansion of or  
1016 addition to any health care facility defined in subparagraph (ii)

1017 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1018 facility), subparagraph (vi) (intermediate care facility),  
1019 subparagraph (viii) (intermediate care facility for the mentally  
1020 retarded) and subparagraph (x) (psychiatric residential treatment  
1021 facility) of Section 41-7-173(h) which is owned by the State of  
1022 Mississippi and under the direction and control of the State  
1023 Department of Mental Health, and the addition of new beds or the  
1024 conversion of beds from one category to another in any such  
1025 defined health care facility which is owned by the State of  
1026 Mississippi and under the direction and control of the State  
1027 Department of Mental Health, shall not require the issuance of a  
1028 certificate of need under Section 41-7-171 et seq.,  
1029 notwithstanding any provision in Section 41-7-171 et seq. to the  
1030 contrary.

1031 (12) The new construction, renovation or expansion of or  
1032 addition to any veterans homes or domiciliaries for eligible  
1033 veterans of the State of Mississippi as authorized under Section  
1034 35-1-19 shall not require the issuance of a certificate of need,  
1035 notwithstanding any provision in Section 41-7-171 et seq. to the  
1036 contrary.

1037 (13) The new construction of a nursing facility or nursing  
1038 facility beds or the conversion of other beds to nursing facility  
1039 beds shall not require the issuance of a certificate of need,  
1040 notwithstanding any provision in Section 41-7-171 et seq. to the  
1041 contrary, if the conditions of this subsection are met.

1042 (a) Before any construction or conversion may be  
1043 undertaken without a certificate of need, the owner of the nursing  
1044 facility, in the case of an existing facility, or the applicant to  
1045 construct a nursing facility, in the case of new construction,  
1046 first must file a written notice of intent and sign a written  
1047 agreement with the State Department of Health that the entire  
1048 nursing facility will not at any time participate in or have any  
1049 beds certified for participation in the Medicaid program (Section



1050 43-13-101 et seq.), will not admit or keep any patients in the  
1051 nursing facility who are participating in the Medicaid program,  
1052 and will not submit any claim for Medicaid reimbursement for any  
1053 patient in the facility. This written agreement by the owner or  
1054 applicant shall be a condition of exercising the authority under  
1055 this subsection without a certificate of need, and the agreement  
1056 shall be fully binding on any subsequent owner of the nursing  
1057 facility if the ownership of the facility is transferred at any  
1058 time after the agreement is signed. After the written agreement  
1059 is signed, the Division of Medicaid and the State Department of  
1060 Health shall not certify any beds in the nursing facility for  
1061 participation in the Medicaid program. If the nursing facility  
1062 violates the terms of the written agreement by participating in  
1063 the Medicaid program, having any beds certified for participation  
1064 in the Medicaid program, admitting or keeping any patient in the  
1065 facility who is participating in the Medicaid program, or  
1066 submitting any claim for Medicaid reimbursement for any patient in  
1067 the facility, the State Department of Health shall revoke the  
1068 license of the nursing facility at the time that the department  
1069 determines, after a hearing complying with due process, that the  
1070 facility has violated the terms of the written agreement.

1071 (b) For the purposes of this subsection, participation  
1072 in the Medicaid program by a nursing facility includes Medicaid  
1073 reimbursement of coinsurance and deductibles for recipients who  
1074 are qualified Medicare beneficiaries and/or those who are dually  
1075 eligible. Any nursing facility exercising the authority under  
1076 this subsection may not bill or submit a claim to the Division of  
1077 Medicaid for services to qualified Medicare beneficiaries and/or  
1078 those who are dually eligible.

1079 (c) The new construction of a nursing facility or  
1080 nursing facility beds or the conversion of other beds to nursing  
1081 facility beds described in this section must be either a part of a  
1082 completely new continuing care retirement community, as described

1083 in the latest edition of the Mississippi State Health Plan, or an  
1084 addition to existing personal care and independent living  
1085 components, and so that the completed project will be a continuing  
1086 care retirement community, containing (i) independent living  
1087 accommodations, (ii) personal care beds, and (iii) the nursing  
1088 home facility beds. The three (3) components must be located on a  
1089 single site and be operated as one (1) inseparable facility. The  
1090 nursing facility component must contain a minimum of thirty (30)  
1091 beds. Any nursing facility beds authorized by this section will  
1092 not be counted against the bed need set forth in the State Health  
1093 Plan, as identified in Section 41-7-171 et seq.

1094 This subsection (13) shall stand repealed from and after July  
1095 1, 2005.

1096 (14) The State Department of Health shall issue a  
1097 certificate of need to any hospital which is currently licensed  
1098 for two hundred fifty (250) or more acute care beds and is located  
1099 in any general hospital service area not having a comprehensive  
1100 cancer center, for the establishment and equipping of such a  
1101 center which provides facilities and services for outpatient  
1102 radiation oncology therapy, outpatient medical oncology therapy,  
1103 and appropriate support services including the provision of  
1104 radiation therapy services. The provision of Section 41-7-193(1)  
1105 regarding substantial compliance with the projection of need as  
1106 reported in the current State Health Plan is waived for the  
1107 purpose of this subsection.

1108 (15) The State Department of Health may authorize the  
1109 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1110 North Panola Community Hospital to the South Panola Community  
1111 Hospital. The authorization for the transfer of those beds shall  
1112 be exempt from the certificate of need review process.

1113 (16) Nothing in this section or in any other provision of  
1114 Section 41-7-171 et seq. shall prevent any nursing facility from  
1115 designating an appropriate number of existing beds in the facility

1116 as beds for providing care exclusively to patients with  
1117 Alzheimer's disease.

1118           **SECTION 2.** This act shall take effect and be in force from  
1119 and after July 1, 2004.