

By: Senator(s) Horhn, Dearing

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2796

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
3 THE CONSTRUCTION OF A 60-BED NURSING FACILITY IN ANY UNDERSERVED
4 MINORITY ZIP CODE AREA IN THE STATE; AND FOR RELATED PURPOSES.

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

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

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

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

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

20 (c) Any change in the existing bed complement of any
21 health care facility through the addition or conversion of any
22 beds or the alteration, modernizing or refurbishing of any unit or
23 department in which the beds may be located; however, if a health
24 care facility has voluntarily delicensed some of its existing bed
25 complement, it may later relicense some or all of its delicensed
26 beds without the necessity of having to acquire a certificate of
27 need. The State Department of Health shall maintain a record of
28 the delicensing health care facility and its voluntarily

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

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

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

62 (xiii) Extracorporeal shock wave lithotripsy
63 services;

64 (xiv) Long-term care hospital services;

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

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

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

89 (g) Changes of ownership of existing health care
90 facilities in which a notice of intent is not filed with the State
91 Department of Health at least thirty (30) days prior to the date
92 such change of ownership occurs, or a change in services or bed
93 capacity as prescribed in paragraph (c) or (d) of this subsection
94 as a result of the change of ownership; an acquisition for less

95 than fair market value must be reviewed, if the acquisition at
96 fair market value would be subject to review;

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

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

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

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

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

125 (a) The department may issue a certificate of need to
126 any person proposing the new construction of any health care
127 facility defined in subparagraphs (iv) and (vi) of Section

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

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

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

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

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

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

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

194 program (Section 43-13-101 et seq.) for the beds in the nursing
195 facility that were authorized under this paragraph (f).

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

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

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

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

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

260 for the beds in the long-term care facilities that were authorized
261 under this paragraph (j).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

623 3. Has no existing or approved nonpublic
624 nursing facility located in the zip code area.

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

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

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

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

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

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

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

648 d. Denial of payment for new admissions;
649 and

650 3. Mississippi Department of Health finds no
651 clear pattern of substantial or repeated state licensure and
652 Medicaid certification sanctions, including administrative
653 penalties and/or other sanctions;

654 4. 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 5. 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.