

By: Representative Flaggs

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 296

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE A
3 CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A NURSING FACILITY IN
4 HINDS COUNTY, NOT EXCEEDING 120 BEDS, WHICH WILL PROVIDE CARE IN A
5 HOME-LIKE ATMOSPHERE EXCLUSIVELY TO DISABLED ADULTS WHO HAVE LOST
6 SOME PHYSICAL OR MENTAL FUNCTION; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

63 (xii) Magnetic resonance imaging services;

64 (xiii) Extracorporeal shock wave lithotripsy
65 services;

66 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

253 (j) The department may issue certificates of need to
254 allow any existing freestanding long-term care facility in
255 Tishomingo County and Hancock County that on July 1, 1995, is
256 licensed with fewer than sixty (60) beds. For the purposes of
257 this paragraph (j), the provision of Section 41-7-193(1) requiring
258 substantial compliance with the projection of need as reported in
259 the current State Health Plan is waived. From and after July 1,
260 1999, there shall be no prohibition or restrictions on

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

610 (s) The State Department of Health shall issue a
611 certificate of need for the construction of a nursing facility in
612 Hinds County, not exceeding one hundred twenty (120) beds, which
613 will provide care in a home-like atmosphere exclusively to
614 disabled adults who have lost some physical or mental function.

615 (3) The State Department of Health may grant approval for
616 and issue certificates of need to any person proposing the new
617 construction of, addition to, conversion of beds of or expansion
618 of any health care facility defined in subparagraph (x)
619 (psychiatric residential treatment facility) of Section
620 41-7-173(h). The total number of beds which may be authorized by
621 such certificates of need shall not exceed three hundred
622 thirty-four (334) beds for the entire state.

623 (a) Of the total number of beds authorized under this
624 subsection, the department shall issue a certificate of need to a
625 privately-owned psychiatric residential treatment facility in
626 Simpson County for the conversion of sixteen (16) intermediate
627 care facility for the mentally retarded (ICF-MR) beds to
628 psychiatric residential treatment facility beds, provided that
629 facility agrees in writing that the facility shall give priority
630 for the use of those sixteen (16) beds to Mississippi residents
631 who are presently being treated in out-of-state facilities.

632 (b) Of the total number of beds authorized under this
633 subsection, the department may issue a certificate or certificates
634 of need for the construction or expansion of psychiatric
635 residential treatment facility beds or the conversion of other
636 beds to psychiatric residential treatment facility beds in Warren
637 County, not to exceed sixty (60) psychiatric residential treatment
638 facility beds, provided that the facility agrees in writing that
639 no more than thirty (30) of the beds at the psychiatric
640 residential treatment facility will be certified for participation
641 in the Medicaid program (Section 43-13-101 et seq.) for the use of
642 any patients other than those who are participating only in the
643 Medicaid program of another state, and that no claim will be
644 submitted to the Division of Medicaid for Medicaid reimbursement
645 for more than thirty (30) patients in the psychiatric residential
646 treatment facility in any day or for any patient in the
647 psychiatric residential treatment facility who is in a bed that is
648 not Medicaid-certified. This written agreement by the recipient
649 of the certificate of need shall be a condition of the issuance of
650 the certificate of need under this paragraph, and the agreement
651 shall be fully binding on any subsequent owner of the psychiatric
652 residential treatment facility if the ownership of the facility is
653 transferred at any time after the issuance of the certificate of
654 need. After this written agreement is executed, the Division of
655 Medicaid and the State Department of Health shall not certify more

656 than thirty (30) of the beds in the psychiatric residential
657 treatment facility for participation in the Medicaid program for
658 the use of any patients other than those who are participating
659 only in the Medicaid program of another state. If the psychiatric
660 residential treatment facility violates the terms of the written
661 agreement by admitting or keeping in the facility on a regular or
662 continuing basis more than thirty (30) patients who are
663 participating in the Mississippi Medicaid program, the State
664 Department of Health shall revoke the license of the facility, at
665 the time that the department determines, after a hearing complying
666 with due process, that the facility has violated the condition
667 upon which the certificate of need was issued, as provided in this
668 paragraph and in the written agreement.

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

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

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

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

716 (e) Of the total number of beds authorized under this
717 subsection (3) the department shall issue a certificate of need to
718 a privately-owned, nonprofit psychiatric residential treatment
719 facility in Hinds County for an eight-bed expansion of the
720 facility, provided that the facility agrees in writing that the
721 facility shall give priority for the use of those eight (8) beds

722 to Mississippi residents who are presently being treated in
723 out-of-state facilities.

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

751 (4) (a) From and after July 1, 1993, the department shall
752 not issue a certificate of need to any person for the new
753 construction of any hospital, psychiatric hospital or chemical
754 dependency hospital that will contain any child/adolescent

755 psychiatric or child/adolescent chemical dependency beds, or for
756 the conversion of any other health care facility to a hospital,
757 psychiatric hospital or chemical dependency hospital that will
758 contain any child/adolescent psychiatric or child/adolescent
759 chemical dependency beds, or for the addition of any
760 child/adolescent psychiatric or child/adolescent chemical
761 dependency beds in any hospital, psychiatric hospital or chemical
762 dependency hospital, or for the conversion of any beds of another
763 category in any hospital, psychiatric hospital or chemical
764 dependency hospital to child/adolescent psychiatric or
765 child/adolescent chemical dependency beds, except as hereinafter
766 authorized:

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

788 issuance of the certificate of need, regardless of the ownership
789 of the facility, participates in the Medicaid program or admits or
790 keeps any patients in the hospital, psychiatric hospital or
791 chemical dependency hospital who are participating in the Medicaid
792 program, the State Department of Health shall revoke the
793 certificate of need, if it is still outstanding, and shall deny or
794 revoke the license of the hospital, psychiatric hospital or
795 chemical dependency hospital, at the time that the department
796 determines, after a hearing complying with due process, that the
797 hospital, psychiatric hospital or chemical dependency hospital has
798 failed to comply with any of the conditions upon which the
799 certificate of need was issued, as provided in this subparagraph
800 and in the written agreement by the recipient of the certificate
801 of need.

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

815 (iii) The department may issue a certificate or
816 certificates of need for the construction or expansion of
817 child/adolescent psychiatric beds or the conversion of other beds
818 to child/adolescent psychiatric beds in Warren County. For
819 purposes of this subparagraph, the provisions of Section
820 41-7-193(1) requiring substantial compliance with the projection

821 of need as reported in the current State Health Plan are waived.
822 The total number of beds that may be authorized under the
823 authority of this subparagraph shall not exceed twenty (20) beds.
824 There shall be no prohibition or restrictions on participation in
825 the Medicaid program (Section 43-13-101 et seq.) for the person
826 receiving the certificate of need authorized under this
827 subparagraph (a)(iii) or for the beds converted pursuant to the
828 authority of that certificate of need.

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

840 (iv) The department shall issue a certificate of
841 need to the Region 7 Mental Health/Retardation Commission for the
842 construction or expansion of child/adolescent psychiatric beds or
843 the conversion of other beds to child/adolescent psychiatric beds
844 in any of the counties served by the commission. For purposes of
845 this subparagraph, the provisions of Section 41-7-193(1) requiring
846 substantial compliance with the projection of need as reported in
847 the current State Health Plan is waived. The total number of beds
848 that may be authorized under the authority of this subparagraph
849 shall not exceed twenty (20) beds. There shall be no prohibition
850 or restrictions on participation in the Medicaid program (Section
851 43-13-101 et seq.) for the person receiving the certificate of
852 need authorized under this subparagraph (a)(iv) or for the beds
853 converted pursuant to the authority of that certificate of need.

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

882 (vi) The department may issue a certificate or
883 certificates of need for the expansion of child psychiatric beds
884 or the conversion of other beds to child psychiatric beds at the
885 University of Mississippi Medical Center. For purposes of this
886 subparagraph (a)(vi), the provision of Section 41-7-193(1)

887 requiring substantial compliance with the projection of need as
888 reported in the current State Health Plan is waived. The total
889 number of beds that may be authorized under the authority of this
890 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
891 shall be no prohibition or restrictions on participation in the
892 Medicaid program (Section 43-13-101 et seq.) for the hospital
893 receiving the certificate of need authorized under this
894 subparagraph (a)(vi) or for the beds converted pursuant to the
895 authority of that certificate of need.

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

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

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

920 that the long-term care hospital will not participate in the
921 Medicaid program shall be a condition of the issuance of a
922 certificate of need to any person under this subsection (6), and
923 if such long-term care hospital at any time after the issuance of
924 the certificate of need, regardless of the ownership of the
925 facility, participates in the Medicaid program or admits or keeps
926 any patients in the facility who are participating in the Medicaid
927 program, the State Department of Health shall revoke the
928 certificate of need, if it is still outstanding, and shall deny or
929 revoke the license of the long-term care hospital, at the time
930 that the department determines, after a hearing complying with due
931 process, that the facility has failed to comply with any of the
932 conditions upon which the certificate of need was issued, as
933 provided in this subsection and in the written agreement by the
934 recipient of the certificate of need. For purposes of this
935 subsection, the provision of Section 41-7-193(1) requiring
936 substantial compliance with the projection of need as reported in
937 the current State Health Plan is hereby waived.

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

953 eligible for both Medicaid and Medicare or eligible only for
954 Medicaid to stay in the swing beds of the hospital for more than
955 thirty (30) days per admission unless the hospital receives prior
956 approval for such patient from the Division of Medicaid, Office of
957 the Governor. Any hospital having more licensed beds or a higher
958 average daily census (ADC) than the maximum number specified in
959 federal regulations for participation in the swing-bed program
960 which receives such certificate of need shall develop a procedure
961 to insure that before a patient is allowed to stay in the swing
962 beds of the hospital, there are no vacant nursing home beds
963 available for that patient located within a fifty-mile radius of
964 the hospital. When any such hospital has a patient staying in the
965 swing beds of the hospital and the hospital receives notice from a
966 nursing home located within such radius that there is a vacant bed
967 available for that patient, the hospital shall transfer the
968 patient to the nursing home within a reasonable time after receipt
969 of the notice. Any hospital which is subject to the requirements
970 of the two (2) preceding sentences of this subsection may be
971 suspended from participation in the swing-bed program for a
972 reasonable period of time by the State Department of Health if the
973 department, after a hearing complying with due process, determines
974 that the hospital has failed to comply with any of those
975 requirements.

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

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

986 care facility as defined in subparagraph (ix) of Section
987 41-7-173(h).

988 (10) Health care facilities owned and/or operated by the
989 state or its agencies are exempt from the restraints in this
990 section against issuance of a certificate of need if such addition
991 or expansion consists of repairing or renovation necessary to
992 comply with the state licensure law. This exception shall not
993 apply to the new construction of any building by such state
994 facility. This exception shall not apply to any health care
995 facilities owned and/or operated by counties, municipalities,
996 districts, unincorporated areas, other defined persons, or any
997 combination thereof.

998 (11) The new construction, renovation or expansion of or
999 addition to any health care facility defined in subparagraph (ii)
1000 (psychiatric hospital), subparagraph (iv) (skilled nursing
1001 facility), subparagraph (vi) (intermediate care facility),
1002 subparagraph (viii) (intermediate care facility for the mentally
1003 retarded) and subparagraph (x) (psychiatric residential treatment
1004 facility) of Section 41-7-173(h) which is owned by the State of
1005 Mississippi and under the direction and control of the State
1006 Department of Mental Health, and the addition of new beds or the
1007 conversion of beds from one category to another in any such
1008 defined health care facility which is owned by the State of
1009 Mississippi and under the direction and control of the State
1010 Department of Mental Health, shall not require the issuance of a
1011 certificate of need under Section 41-7-171 et seq.,
1012 notwithstanding any provision in Section 41-7-171 et seq. to the
1013 contrary.

1014 (12) The new construction, renovation or expansion of or
1015 addition to any veterans homes or domiciliaries for eligible
1016 veterans of the State of Mississippi as authorized under Section
1017 35-1-19 shall not require the issuance of a certificate of need,

1018 notwithstanding any provision in Section 41-7-171 et seq. to the
1019 contrary.

1020 (13) The new construction of a nursing facility or nursing
1021 facility beds or the conversion of other beds to nursing facility
1022 beds shall not require the issuance of a certificate of need,
1023 notwithstanding any provision in Section 41-7-171 et seq. to the
1024 contrary, if the conditions of this subsection are met.

1025 (a) Before any construction or conversion may be
1026 undertaken without a certificate of need, the owner of the nursing
1027 facility, in the case of an existing facility, or the applicant to
1028 construct a nursing facility, in the case of new construction,
1029 first must file a written notice of intent and sign a written
1030 agreement with the State Department of Health that the entire
1031 nursing facility will not at any time participate in or have any
1032 beds certified for participation in the Medicaid program (Section
1033 43-13-101 et seq.), will not admit or keep any patients in the
1034 nursing facility who are participating in the Medicaid program,
1035 and will not submit any claim for Medicaid reimbursement for any
1036 patient in the facility. This written agreement by the owner or
1037 applicant shall be a condition of exercising the authority under
1038 this subsection without a certificate of need, and the agreement
1039 shall be fully binding on any subsequent owner of the nursing
1040 facility if the ownership of the facility is transferred at any
1041 time after the agreement is signed. After the written agreement
1042 is signed, the Division of Medicaid and the State Department of
1043 Health shall not certify any beds in the nursing facility for
1044 participation in the Medicaid program. If the nursing facility
1045 violates the terms of the written agreement by participating in
1046 the Medicaid program, having any beds certified for participation
1047 in the Medicaid program, admitting or keeping any patient in the
1048 facility who is participating in the Medicaid program, or
1049 submitting any claim for Medicaid reimbursement for any patient in
1050 the facility, the State Department of Health shall revoke the

1051 license of the nursing facility at the time that the department
1052 determines, after a hearing complying with due process, that the
1053 facility has violated the terms of the written agreement.

1054 (b) For the purposes of this subsection, participation
1055 in the Medicaid program by a nursing facility includes Medicaid
1056 reimbursement of coinsurance and deductibles for recipients who
1057 are qualified Medicare beneficiaries and/or those who are dually
1058 eligible. Any nursing facility exercising the authority under
1059 this subsection may not bill or submit a claim to the Division of
1060 Medicaid for services to qualified Medicare beneficiaries and/or
1061 those who are dually eligible.

1062 (c) The new construction of a nursing facility or
1063 nursing facility beds or the conversion of other beds to nursing
1064 facility beds described in this section must be either a part of a
1065 completely new continuing care retirement community, as described
1066 in the latest edition of the Mississippi State Health Plan, or an
1067 addition to existing personal care and independent living
1068 components, and so that the completed project will be a continuing
1069 care retirement community, containing (i) independent living
1070 accommodations, (ii) personal care beds, and (iii) the nursing
1071 home facility beds. The three (3) components must be located on a
1072 single site and be operated as one (1) inseparable facility. The
1073 nursing facility component must contain a minimum of thirty (30)
1074 beds. Any nursing facility beds authorized by this section will
1075 not be counted against the bed need set forth in the State Health
1076 Plan, as identified in Section 41-7-171 et seq.

1077 This subsection (13) shall stand repealed from and after July
1078 1, 2005.

1079 (14) The State Department of Health shall issue a
1080 certificate of need to any hospital which is currently licensed
1081 for two hundred fifty (250) or more acute care beds and is located
1082 in any general hospital service area not having a comprehensive
1083 cancer center, for the establishment and equipping of such a

1084 center which provides facilities and services for outpatient
1085 radiation oncology therapy, outpatient medical oncology therapy,
1086 and appropriate support services including the provision of
1087 radiation therapy services. The provision of Section 41-7-193(1)
1088 regarding substantial compliance with the projection of need as
1089 reported in the current State Health Plan is waived for the
1090 purpose of this subsection.

1091 (15) The State Department of Health may authorize the
1092 transfer of hospital beds, not to exceed sixty (60) beds, from the
1093 North Panola Community Hospital to the South Panola Community
1094 Hospital. The authorization for the transfer of those beds shall
1095 be exempt from the certificate of need review process.

1096 (16) The State Department of Health shall issue any
1097 certificates of need necessary for Mississippi State University
1098 and a public or private health care provider to jointly acquire
1099 and operate a linear accelerator and a magnetic resonance imaging
1100 unit. Those certificates of need shall cover all capital
1101 expenditures related to the project between Mississippi State
1102 University and the health care provider, including, but not
1103 limited to, the acquisition of the linear accelerator, the
1104 magnetic resonance imaging unit and other radiological modalities;
1105 the offering of linear accelerator and magnetic resonance imaging
1106 services; and the cost of construction of facilities in which to
1107 locate these services. The linear accelerator and the magnetic
1108 resonance imaging unit shall be (a) located in the City of
1109 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1110 Mississippi State University and the public or private health care
1111 provider selected by Mississippi State University through a
1112 request for proposals (RFP) process in which Mississippi State
1113 University selects, and the Board of Trustees of State
1114 Institutions of Higher Learning approves, the health care provider
1115 that makes the best overall proposal; (c) available to Mississippi
1116 State University for research purposes two-thirds (2/3) of the

1117 time that the linear accelerator and magnetic resonance imaging
1118 unit are operational; and (d) available to the public or private
1119 health care provider selected by Mississippi State University and
1120 approved by the Board of Trustees of State Institutions of Higher
1121 Learning one-third (1/3) of the time for clinical, diagnostic and
1122 treatment purposes. For purposes of this subsection, the
1123 provisions of Section 41-7-193(1) requiring substantial compliance
1124 with the projection of need as reported in the current State
1125 Health Plan are waived.

1126 (17) Nothing in this section or in any other provision of
1127 Section 41-7-171 et seq. shall prevent any nursing facility from
1128 designating an appropriate number of existing beds in the facility
1129 as beds for providing care exclusively to patients with
1130 Alzheimer's disease.

1131 **SECTION 2.** This act shall take effect and be in force from
1132 and after July 1, 2006.