

By: Fredericks, Compretta

To: Public Health and  
Welfare;  
Appropriations

HOUSE BILL NO. 249

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE  
3 OR CERTIFICATES OF NEED FOR THE CONSTRUCTION OF A REPLACEMENT  
4 FACILITY FOR ANY EXISTING NURSING HOME AND FOR THE ADDITION OF NEW  
5 NURSING HOME BEDS IN THE REPLACEMENT FACILITY, SUBJECT TO CERTAIN  
6 CONDITIONS; 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:[RF1]

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 one thousand three  
20 hundred twenty (1,320) feet from the main entrance of the health  
21 care facility;

22 (c) A change over a period of two (2) years' time, as  
23 established by the State Department of Health, in existing bed

24 complement through the addition of more than ten (10) beds or more  
25 than ten percent (10%) of the total bed capacity of a designated  
26 licensed category or subcategory of any health care facility,  
27 whichever is less, from one physical facility or site to another;  
28 the conversion over a period of two (2) years' time, as  
29 established by the State Department of Health, of existing bed  
30 complement of more than ten (10) beds or more than ten percent  
31 (10%) of the total bed capacity of a designated licensed category  
32 or subcategory of any such health care facility, whichever is  
33 less; or the alteration, modernizing or refurbishing of any unit  
34 or department wherein such beds may be located; provided, however,  
35 that from and after July 1, 1994, no health care facility shall be  
36 authorized to add any beds or convert any beds to another category  
37 of beds without a certificate of need under the authority of  
38 subsection (1)(c) of this section unless there is a projected need  
39 for such beds in the planning district in which the facility is  
40 located, as reported in the most current State Health Plan;

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

- 45 (i) Open heart surgery services;
- 46 (ii) Cardiac catheterization services;
- 47 (iii) Comprehensive inpatient rehabilitation  
48 services;
- 49 (iv) Licensed psychiatric services;
- 50 (v) Licensed chemical dependency services;
- 51 (vi) Radiation therapy services;
- 52 (vii) Diagnostic imaging services of an invasive  
53 nature, i.e. invasive digital angiography;
- 54 (viii) Nursing home care as defined in

55 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

56 (ix) Home health services;

57 (x) Swing-bed services;

58 (xi) Ambulatory surgical services;

59 (xii) Magnetic resonance imaging services;

60 (xiii) Extracorporeal shock wave lithotripsy

61 services;

62 (xiv) Long-term care hospital services;

63 (xv) Positron Emission Tomography (PET) Services;

64 (e) The relocation of one or more health services from

65 one physical facility or site to another physical facility or

66 site, unless such relocation, which does not involve a capital

67 expenditure by or on behalf of a health care facility, (i) is to a

68 physical facility or site within one thousand three hundred twenty

69 (1,320) feet from the main entrance of the health care facility

70 where the health care service is located, or (ii) is the result of

71 an order of a court of appropriate jurisdiction or a result of

72 pending litigation in such court, or by order of the State

73 Department of Health, or by order of any other agency or legal

74 entity of the state, the federal government, or any political

75 subdivision of either, whose order is also approved by the State

76 Department of Health;

77 (f) The acquisition or otherwise control of any major

78 medical equipment for the provision of medical services; provided,

79 however, (i) the acquisition of any major medical equipment used

80 only for research purposes, and (ii) the acquisition of major

81 medical equipment to replace medical equipment for which a

82 facility is already providing medical services and for which the

83 State Department of Health has been notified before the date of  
84 such acquisition shall be exempt from this paragraph; an  
85 acquisition for less than fair market value must be reviewed, if  
86 the acquisition at fair market value would be subject to review;

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

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

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

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

110 (k) The contracting of a health care facility as

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

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

123 (a) The department may issue a certificate of need to  
124 any person proposing the new construction of any health care  
125 facility defined in subparagraphs (iv) and (vi) of Section  
126 41-7-173(h) as part of a life care retirement facility, in any  
127 county bordering on the Gulf of Mexico in which is located a  
128 National Aeronautics and Space Administration facility, not to  
129 exceed forty (40) beds. From and after July 1, 1999, there shall  
130 be no prohibition or restrictions on participation in the Medicaid  
131 program (Section 43-13-101 et seq.) for the beds in the health  
132 care facility that were authorized under this paragraph (a).

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

139 nursing facilities that were authorized under this paragraph (b).

140           (c) The department may issue a certificate of need for  
141 the addition to or expansion of any skilled nursing facility that  
142 is part of an existing continuing care retirement community  
143 located in Madison County, provided that the recipient of the  
144 certificate of need agrees in writing that the skilled nursing  
145 facility will not at any time participate in the Medicaid program  
146 (Section 43-13-101 et seq.) or admit or keep any patients in the  
147 skilled nursing facility who are participating in the Medicaid  
148 program. This written agreement by the recipient of the  
149 certificate of need shall be fully binding on any subsequent owner  
150 of the skilled nursing facility, if the ownership of the facility  
151 is transferred at any time after the issuance of the certificate  
152 of need. Agreement that the skilled nursing facility will not  
153 participate in the Medicaid program shall be a condition of the  
154 issuance of a certificate of need to any person under this  
155 paragraph (c), and if such skilled nursing facility at any time  
156 after the issuance of the certificate of need, regardless of the  
157 ownership of the facility, participates in the Medicaid program or  
158 admits or keeps any patients in the facility who are participating  
159 in the Medicaid program, the State Department of Health shall  
160 revoke the certificate of need, if it is still outstanding, and  
161 shall deny or revoke the license of the skilled nursing facility,  
162 at the time that the department determines, after a hearing  
163 complying with due process, that the facility has failed to comply  
164 with any of the conditions upon which the certificate of need was  
165 issued, as provided in this paragraph and in the written agreement  
166 by the recipient of the certificate of need. The total number of

167 beds that may be authorized under the authority of this paragraph  
168 (c) shall not exceed sixty (60) beds.

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

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

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

194 (g) The State Department of Health may issue a

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

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

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



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

249 (j) The department may issue certificates of need to  
250 allow any existing freestanding long-term care facility in

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

260 (k) The department may issue a certificate of need for  
261 the construction of a nursing facility at a continuing care  
262 retirement community in Lowndes County, provided that the  
263 recipient of the certificate of need agrees in writing that the  
264 nursing facility will not at any time participate in the Medicaid  
265 program (Section 43-13-101 et seq.) or admit or keep any patients  
266 in the nursing facility who are participating in the Medicaid  
267 program. This written agreement by the recipient of the  
268 certificate of need shall be fully binding on any subsequent owner  
269 of the nursing facility, if the ownership of the facility is  
270 transferred at any time after the issuance of the certificate of  
271 need. Agreement that the nursing facility will not participate in  
272 the Medicaid program shall be a condition of the issuance of a  
273 certificate of need to any person under this paragraph (k), and if  
274 such nursing facility at any time after the issuance of the  
275 certificate of need, regardless of the ownership of the facility,  
276 participates in the Medicaid program or admits or keeps any  
277 patients in the facility who are participating in the Medicaid  
278 program, the State Department of Health shall revoke the

279 certificate of need, if it is still outstanding, and shall deny or  
280 revoke the license of the nursing facility, at the time that the  
281 department determines, after a hearing complying with due process,  
282 that the facility has failed to comply with any of the conditions  
283 upon which the certificate of need was issued, as provided in this  
284 paragraph and in the written agreement by the recipient of the  
285 certificate of need. The total number of beds that may be  
286 authorized under the authority of this paragraph (k) shall not  
287 exceed sixty (60) beds.

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

298           (m) The State Department of Health may issue a  
299 certificate of need to a county-owned hospital in the Second  
300 Judicial District of Panola County for the conversion of not more  
301 than seventy-two (72) hospital beds to nursing facility beds,  
302 provided that the recipient of the certificate of need agrees in  
303 writing that none of the beds at the nursing facility will be  
304 certified for participation in the Medicaid program (Section  
305 43-13-101 et seq.), and that no claim will be submitted for  
306 Medicaid reimbursement in the nursing facility in any day or for

307 any patient in the nursing facility. This written agreement by  
308 the recipient of the certificate of need shall be a condition of  
309 the issuance of the certificate of need under this paragraph, and  
310 the agreement shall be fully binding on any subsequent owner of  
311 the nursing facility if the ownership of the nursing facility is  
312 transferred at any time after the issuance of the certificate of  
313 need. After this written agreement is executed, the Division of  
314 Medicaid and the State Department of Health shall not certify any  
315 of the beds in the nursing facility for participation in the  
316 Medicaid program. If the nursing facility violates the terms of  
317 the written agreement by admitting or keeping in the nursing  
318 facility on a regular or continuing basis any patients who are  
319 participating in the Medicaid program, the State Department of  
320 Health shall revoke the license of the nursing facility, at the  
321 time that the department determines, after a hearing complying  
322 with due process, that the nursing facility has violated the  
323 condition upon which the certificate of need was issued, as  
324 provided in this paragraph and in the written agreement. If the  
325 certificate of need authorized under this paragraph is not issued  
326 within twelve (12) months after July 1, 2001, the department shall  
327 deny the application for the certificate of need and shall not  
328 issue the certificate of need at any time after the twelve-month  
329 period, unless the issuance is contested. If the certificate of  
330 need is issued and substantial construction of the nursing  
331 facility beds has not commenced within eighteen (18) months after  
332 July 1, 2001, the State Department of Health, after a hearing  
333 complying with due process, shall revoke the certificate of need  
334 if it is still outstanding, and the department shall not issue a

335 license for the nursing facility at any time after the  
336 eighteen-month period. Provided, however, that if the issuance of  
337 the certificate of need is contested, the department shall require  
338 substantial construction of the nursing facility beds within six  
339 (6) months after final adjudication on the issuance of the  
340 certificate of need.

341 (n) The department may issue a certificate of need for  
342 the new construction, addition or conversion of skilled nursing  
343 facility beds in Madison County, provided that the recipient of  
344 the certificate of need agrees in writing that the skilled nursing  
345 facility will not at any time participate in the Medicaid program  
346 (Section 43-13-101 et seq.) or admit or keep any patients in the  
347 skilled nursing facility who are participating in the Medicaid  
348 program. This written agreement by the recipient of the  
349 certificate of need shall be fully binding on any subsequent owner  
350 of the skilled nursing facility, if the ownership of the facility  
351 is transferred at any time after the issuance of the certificate  
352 of need. Agreement that the skilled nursing facility will not  
353 participate in the Medicaid program shall be a condition of the  
354 issuance of a certificate of need to any person under this  
355 paragraph (n), and if such skilled nursing facility at any time  
356 after the issuance of the certificate of need, regardless of the  
357 ownership of the facility, participates in the Medicaid program or  
358 admits or keeps any patients in the facility who are participating  
359 in the Medicaid program, the State Department of Health shall  
360 revoke the certificate of need, if it is still outstanding, and  
361 shall deny or revoke the license of the skilled nursing facility,  
362 at the time that the department determines, after a hearing

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

385 (o) The department may issue a certificate of need for  
386 the new construction, addition or conversion of skilled nursing  
387 facility beds in Leake County, provided that the recipient of the  
388 certificate of need agrees in writing that the skilled nursing  
389 facility will not at any time participate in the Medicaid program  
390 (Section 43-13-101 et seq.) or admit or keep any patients in the

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

419 nursing facility beds has not commenced within eighteen (18)  
420 months after the effective date of July 1, 2001, the State  
421 Department of Health, after a hearing complying with due process,  
422 shall revoke the certificate of need if it is still outstanding,  
423 and the department shall not issue a license for the nursing  
424 facility at any time after the eighteen-month period. Provided,  
425 however, that if the issuance of the certificate of need is  
426 contested, the department shall require substantial construction  
427 of the nursing facility beds within six (6) months after final  
428 adjudication on the issuance of the certificate of need.

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

441 Agreement that the skilled nursing facility will not participate  
442 in the Medicaid program shall be a condition of the issuance of a  
443 certificate of need to any person under this paragraph (p), and if  
444 such skilled nursing facility at any time after the issuance of  
445 the certificate of need, regardless of the ownership of the  
446 facility, participates in the Medicaid program or admits or keeps



447 any patients in the facility who are participating in the Medicaid  
448 program, the State Department of Health shall revoke the  
449 certificate of need, if it is still outstanding, and shall deny or  
450 revoke the license of the skilled nursing facility, at the time  
451 that the department determines, after a hearing complying with due  
452 process, that the facility has failed to comply with any of the  
453 conditions upon which the certificate of need was issued, as  
454 provided in this paragraph and in the written agreement by the  
455 recipient of the certificate of need. The provision of Section  
456 43-7-193(1) regarding substantial compliance of the projection of  
457 need as reported in the current State Health Plan is waived for  
458 the purposes of this paragraph. If the certificate of need  
459 authorized under this paragraph is not issued within twelve (12)  
460 months after July 1, 1998, the department shall deny the  
461 application for the certificate of need and shall not issue the  
462 certificate of need at any time after the twelve-month period,  
463 unless the issuance is contested. If the certificate of need is  
464 issued and substantial construction of the nursing facility beds  
465 has not commenced within eighteen (18) months after July 1, 1998,  
466 the State Department of Health, after a hearing complying with due  
467 process, shall revoke the certificate of need if it is still  
468 outstanding, and the department shall not issue a license for the  
469 nursing facility at any time after the eighteen-month period.  
470 Provided, however, that if the issuance of the certificate of need  
471 is contested, the department shall require substantial  
472 construction of the nursing facility beds within six (6) months  
473 after final adjudication on the issuance of the certificate of  
474 need.

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

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

503 previous fiscal years. During fiscal year 2000, in addition to  
504 the six (6) certificates of need authorized in this subparagraph,  
505 the department also shall issue a certificate of need for new  
506 nursing facility beds in Amite County and a certificate of need  
507 for new nursing facility beds in Carroll County.

508 (iii) Subject to the provisions of subparagraph  
509 (v), the certificate of need issued under subparagraph (ii) for  
510 nursing facility beds in each Long-Term Care Planning District  
511 during each fiscal year shall first be available for nursing  
512 facility beds in the county in the district having the highest  
513 need for those beds, as shown in the fiscal year 1999 State Health  
514 Plan. If there are no applications for a certificate of need for  
515 nursing facility beds in the county having the highest need for  
516 those beds by the date specified by the department, then the  
517 certificate of need shall be available for nursing facility beds  
518 in other counties in the district in descending order of the need  
519 for those beds, from the county with the second highest need to  
520 the county with the lowest need, until an application is received  
521 for nursing facility beds in an eligible county in the district.

522 (iv) Subject to the provisions of subparagraph  
523 (v), the certificate of need issued under subparagraph (ii) for  
524 nursing facility beds in the two (2) counties from the state at  
525 large during each fiscal year shall first be available for nursing  
526 facility beds in the two (2) counties that have the highest need  
527 in the state for those beds, as shown in the fiscal year 1999  
528 State Health Plan, when considering the need on a statewide basis  
529 and without regard to the Long-Term Care Planning Districts in  
530 which the counties are located. If there are no applications for

531 a certificate of need for nursing facility beds in either of the  
532 two (2) counties having the highest need for those beds on a  
533 statewide basis by the date specified by the department, then the  
534 certificate of need shall be available for nursing facility beds  
535 in other counties from the state at large in descending order of  
536 the need for those beds on a statewide basis, from the county with  
537 the second highest need to the county with the lowest need, until  
538 an application is received for nursing facility beds in an  
539 eligible county from the state at large.

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

557 (r) (i) Beginning on July 1, 1999, the State  
558 Department of Health shall issue certificates of need during each

559 of the next two (2) fiscal years for the construction or expansion  
560 of nursing facility beds or the conversion of other beds to  
561 nursing facility beds in each of the four (4) Long-Term Care  
562 Planning Districts designated in the fiscal year 1999 State Health  
563 Plan, to provide care exclusively to patients with Alzheimer's  
564 disease.

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

581 (iii) The State Department of Health, in  
582 consultation with the Department of Mental Health and the Division  
583 of Medicaid, shall develop and prescribe the staffing levels,  
584 space requirements and other standards and requirements that must  
585 be met with regard to the nursing facility beds authorized under  
586 this paragraph (r) to provide care exclusively to patients with

587 Alzheimer's disease.

588           (s) The department shall issue a certificate or  
589 certificates of need to any person or persons for the construction  
590 of a replacement facility for any existing nursing facility and  
591 for the addition of new nursing facility beds in the replacement  
592 facility, subject to the following conditions:

593           (i) The current facility must be one that was not  
594 originally constructed as a nursing facility, as a personal care  
595 home or as a hospital;

596           (ii) The replacement facility or facilities must  
597 be located in the same Long-Term Care Planning District as the  
598 current facility;

599           (iii) The current facility must discontinue  
600 operation as a nursing facility after the replacement facility is  
601 operational as a nursing facility;

602           (iv) The maximum number of replacement nursing  
603 facility beds that shall be authorized by any such certificate of  
604 need shall be eighty-nine (89) beds;

605           (v) The maximum number of new nursing facility  
606 beds that shall be authorized by any such certificate of need  
607 shall be one hundred twenty (120) beds; and

608           (vi) The department shall not charge the applicant  
609 or applicants any fees that are related to the certificate of need  
610 process for any such certificate of need issued under this  
611 paragraph(s).

612           (3) The State Department of Health may grant approval for  
613 and issue certificates of need to any person proposing the new  
614 construction of, addition to, conversion of beds of or expansion

615 of any health care facility defined in subparagraph (x)  
616 (psychiatric residential treatment facility) of Section  
617 41-7-173(h). The total number of beds which may be authorized by  
618 such certificates of need shall not exceed two hundred  
619 seventy-four (274) beds for the entire state.

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

629 (b) Of the total number of beds authorized under this  
630 subsection, the department may issue a certificate or certificates  
631 of need for the construction or expansion of psychiatric  
632 residential treatment facility beds or the conversion of other  
633 beds to psychiatric residential treatment facility beds in Warren  
634 County, not to exceed sixty (60) psychiatric residential treatment  
635 facility beds, provided that the facility agrees in writing that  
636 no more than thirty (30) of the beds at the psychiatric  
637 residential treatment facility will be certified for participation  
638 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
639 any patients other than those who are participating only in the  
640 Medicaid program of another state, and that no claim will be  
641 submitted to the Division of Medicaid for Medicaid reimbursement  
642 for more than thirty (30) patients in the psychiatric residential

643 treatment facility in any day or for any patient in the  
644 psychiatric residential treatment facility who is in a bed that is  
645 not Medicaid-certified. This written agreement by the recipient  
646 of the certificate of need shall be a condition of the issuance of  
647 the certificate of need under this paragraph, and the agreement  
648 shall be fully binding on any subsequent owner of the psychiatric  
649 residential treatment facility if the ownership of the facility is  
650 transferred at any time after the issuance of the certificate of  
651 need. After this written agreement is executed, the Division of  
652 Medicaid and the State Department of Health shall not certify more  
653 than thirty (30) of the beds in the psychiatric residential  
654 treatment facility for participation in the Medicaid program for  
655 the use of any patients other than those who are participating  
656 only in the Medicaid program of another state. If the psychiatric  
657 residential treatment facility violates the terms of the written  
658 agreement by admitting or keeping in the facility on a regular or  
659 continuing basis more than thirty (30) patients who are  
660 participating in the Mississippi Medicaid program, the State  
661 Department of Health shall revoke the license of the facility, at  
662 the time that the department determines, after a hearing complying  
663 with due process, that the facility has violated the condition  
664 upon which the certificate of need was issued, as provided in this  
665 paragraph and in the written agreement.

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



671 County, provided that the hospital agrees in writing (i) that the  
672 hospital shall give priority for the use of those forty (40) beds  
673 to Mississippi residents who are presently being treated in  
674 out-of-state facilities, and (ii) that no more than fifteen (15)  
675 of the beds at the psychiatric residential treatment facility will  
676 be certified for participation in the Medicaid program (Section  
677 43-13-101 et seq.), and that no claim will be submitted for  
678 Medicaid reimbursement for more than fifteen (15) patients in the  
679 psychiatric residential treatment facility in any day or for any  
680 patient in the psychiatric residential treatment facility who is  
681 in a bed that is not Medicaid-certified. This written agreement  
682 by the recipient of the certificate of need shall be a condition  
683 of the issuance of the certificate of need under this paragraph,  
684 and the agreement shall be fully binding on any subsequent owner  
685 of the psychiatric residential treatment facility if the ownership  
686 of the facility is transferred at any time after the issuance of  
687 the certificate of need. After this written agreement is  
688 executed, the Division of Medicaid and the State Department of  
689 Health shall not certify more than fifteen (15) of the beds in the  
690 psychiatric residential treatment facility for participation in  
691 the Medicaid program. If the psychiatric residential treatment  
692 facility violates the terms of the written agreement by admitting  
693 or keeping in the facility on a regular or continuing basis more  
694 than fifteen (15) patients who are participating in the Medicaid  
695 program, the State Department of Health shall revoke the license  
696 of the facility, at the time that the department determines, after  
697 a hearing complying with due process, that the facility has  
698 violated the condition upon which the certificate of need was

699 issued, as provided in this paragraph and in the written  
700 agreement.

701 (d) Of the total number of beds authorized under this  
702 subsection, the department may issue a certificate or certificates  
703 of need for the construction or expansion of psychiatric  
704 residential treatment facility beds or the conversion of other  
705 beds to psychiatric treatment facility beds, not to exceed thirty  
706 (30) psychiatric residential treatment facility beds, in either  
707 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
708 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

709 (e) Of the total number of beds authorized under this  
710 subsection (3) the department shall issue a certificate of need to  
711 a privately owned, nonprofit psychiatric residential treatment  
712 facility in Hinds County for an eight-bed expansion of the  
713 facility, provided that the facility agrees in writing that the  
714 facility shall give priority for the use of those eight (8) beds  
715 to Mississippi residents who are presently being treated in  
716 out-of-state facilities.

717 (4) (a) From and after July 1, 1993, the department shall  
718 not issue a certificate of need to any person for the new  
719 construction of any hospital, psychiatric hospital or chemical  
720 dependency hospital that will contain any child/adolescent  
721 psychiatric or child/adolescent chemical dependency beds, or for  
722 the conversion of any other health care facility to a hospital,  
723 psychiatric hospital or chemical dependency hospital that will  
724 contain any child/adolescent psychiatric or child/adolescent  
725 chemical dependency beds, or for the addition of any  
726 child/adolescent psychiatric or child/adolescent chemical

727 dependency beds in any hospital, psychiatric hospital or chemical  
728 dependency hospital, or for the conversion of any beds of another  
729 category in any hospital, psychiatric hospital or chemical  
730 dependency hospital to child/adolescent psychiatric or  
731 child/adolescent chemical dependency beds, except as hereinafter  
732 authorized:

733                   (i) The department may issue certificates of need  
734 to any person for any purpose described in this subsection,  
735 provided that the hospital, psychiatric hospital or chemical  
736 dependency hospital does not participate in the Medicaid program  
737 (Section 43-13-101 et seq.) at the time of the application for the  
738 certificate of need and the owner of the hospital, psychiatric  
739 hospital or chemical dependency hospital agrees in writing that  
740 the hospital, psychiatric hospital or chemical dependency hospital  
741 will not at any time participate in the Medicaid program or admit  
742 or keep any patients who are participating in the Medicaid program  
743 in the hospital, psychiatric hospital or chemical dependency  
744 hospital. This written agreement by the recipient of the  
745 certificate of need shall be fully binding on any subsequent owner  
746 of the hospital, psychiatric hospital or chemical dependency  
747 hospital, if the ownership of the facility is transferred at any  
748 time after the issuance of the certificate of need. Agreement  
749 that the hospital, psychiatric hospital or chemical dependency  
750 hospital will not participate in the Medicaid program shall be a  
751 condition of the issuance of a certificate of need to any person  
752 under this subparagraph (a)(i), and if such hospital, psychiatric  
753 hospital or chemical dependency hospital at any time after the  
754 issuance of the certificate of need, regardless of the ownership

755 of the facility, participates in the Medicaid program or admits or  
756 keeps any patients in the hospital, psychiatric hospital or  
757 chemical dependency hospital who are participating in the Medicaid  
758 program, the State Department of Health shall revoke the  
759 certificate of need, if it is still outstanding, and shall deny or  
760 revoke the license of the hospital, psychiatric hospital or  
761 chemical dependency hospital, at the time that the department  
762 determines, after a hearing complying with due process, that the  
763 hospital, psychiatric hospital or chemical dependency hospital has  
764 failed to comply with any of the conditions upon which the  
765 certificate of need was issued, as provided in this subparagraph  
766 and in the written agreement by the recipient of the certificate  
767 of need.

768 (ii) The department may issue a certificate of  
769 need for the conversion of existing beds in a county hospital in  
770 Choctaw County from acute care beds to child/adolescent chemical  
771 dependency beds. For purposes of this subparagraph, the  
772 provisions of Section 41-7-193(1) requiring substantial compliance  
773 with the projection of need as reported in the current State  
774 Health Plan is waived. The total number of beds that may be  
775 authorized under authority of this subparagraph shall not exceed  
776 twenty (20) beds. There shall be no prohibition or restrictions  
777 on participation in the Medicaid program (Section 43-13-101 et  
778 seq.) for the hospital receiving the certificate of need  
779 authorized under this subparagraph (a)(ii) or for the beds  
780 converted pursuant to the authority of that certificate of need.

781 (iii) The department may issue a certificate or  
782 certificates of need for the construction or expansion of

783 child/adolescent psychiatric beds or the conversion of other beds  
784 to child/adolescent psychiatric beds in Warren County. For  
785 purposes of this subparagraph, the provisions of Section  
786 41-7-193(1) requiring substantial compliance with the projection  
787 of need as reported in the current State Health Plan are waived.

788 The total number of beds that may be authorized under the  
789 authority of this subparagraph shall not exceed twenty (20) beds.

790 There shall be no prohibition or restrictions on participation in  
791 the Medicaid program (Section 43-13-101 et seq.) for the person  
792 receiving the certificate of need authorized under this  
793 subparagraph (a)(iii) or for the beds converted pursuant to the  
794 authority of that certificate of need.

795 (iv) The department shall issue a certificate of  
796 need to the Region 7 Mental Health/Retardation Commission for the  
797 construction or expansion of child/adolescent psychiatric beds or  
798 the conversion of other beds to child/adolescent psychiatric beds  
799 in any of the counties served by the commission. For purposes of  
800 this subparagraph, the provisions of Section 41-7-193(1) requiring  
801 substantial compliance with the projection of need as reported in  
802 the current State Health Plan is waived. The total number of beds  
803 that may be authorized under the authority of this subparagraph  
804 shall not exceed twenty (20) beds. There shall be no prohibition  
805 or restrictions on participation in the Medicaid program (Section  
806 43-13-101 et seq.) for the person receiving the certificate of  
807 need authorized under this subparagraph (a)(iv) or for the beds  
808 converted pursuant to the authority of that certificate of need.

809 (v) The department may issue a certificate of need  
810 to any county hospital located in Leflore County for the

811 construction or expansion of adult psychiatric beds or the  
812 conversion of other beds to adult psychiatric beds, not to exceed  
813 twenty (20) beds, provided that the recipient of the certificate  
814 of need agrees in writing that the adult psychiatric beds will not  
815 at any time be certified for participation in the Medicaid program  
816 and that the hospital will not admit or keep any patients who are  
817 participating in the Medicaid program in any of such adult  
818 psychiatric beds. This written agreement by the recipient of the  
819 certificate of need shall be fully binding on any subsequent owner  
820 of the hospital if the ownership of the hospital is transferred at  
821 any time after the issuance of the certificate of need. Agreement  
822 that the adult psychiatric beds will not be certified for  
823 participation in the Medicaid program shall be a condition of the  
824 issuance of a certificate of need to any person under this  
825 subparagraph (a)(v), and if such hospital at any time after the  
826 issuance of the certificate of need, regardless of the ownership  
827 of the hospital, has any of such adult psychiatric beds certified  
828 for participation in the Medicaid program or admits or keeps any  
829 Medicaid patients in such adult psychiatric beds, the State  
830 Department of Health shall revoke the certificate of need, if it  
831 is still outstanding, and shall deny or revoke the license of the  
832 hospital at the time that the department determines, after a  
833 hearing complying with due process, that the hospital has failed  
834 to comply with any of the conditions upon which the certificate of  
835 need was issued, as provided in this subparagraph and in the  
836 written agreement by the recipient of the certificate of need.

837 (vi) The department may issue a certificate or  
838 certificates of need for the expansion of child psychiatric beds

839 or the conversion of other beds to child psychiatric beds at the  
840 University of Mississippi Medical Center. For purposes of this  
841 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
842 requiring substantial compliance with the projection of need as  
843 reported in the current State Health Plan is waived. The total  
844 number of beds that may be authorized under the authority of this  
845 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
846 shall be no prohibition or restrictions on participation in the  
847 Medicaid program (Section 43-13-101 et seq.) for the hospital  
848 receiving the certificate of need authorized under this  
849 subparagraph (a)(vi) or for the beds converted pursuant to the  
850 authority of that certificate of need.

851 (b) From and after July 1, 1990, no hospital,  
852 psychiatric hospital or chemical dependency hospital shall be  
853 authorized to add any child/adolescent psychiatric or  
854 child/adolescent chemical dependency beds or convert any beds of  
855 another category to child/adolescent psychiatric or  
856 child/adolescent chemical dependency beds without a certificate of  
857 need under the authority of subsection (1)(c) of this section.

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

861 (6) The State Department of Health shall issue a certificate  
862 of need to a Mississippi corporation qualified to manage a  
863 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
864 Harrison County, not to exceed eighty (80) beds, including any  
865 necessary renovation or construction required for licensure and  
866 certification, provided that the recipient of the certificate of

867 need agrees in writing that the long-term care hospital will not  
868 at any time participate in the Medicaid program (Section 43-13-101  
869 et seq.) or admit or keep any patients in the long-term care  
870 hospital who are participating in the Medicaid program. This  
871 written agreement by the recipient of the certificate of need  
872 shall be fully binding on any subsequent owner of the long-term  
873 care hospital, if the ownership of the facility is transferred at  
874 any time after the issuance of the certificate of need. Agreement  
875 that the long-term care hospital will not participate in the  
876 Medicaid program shall be a condition of the issuance of a  
877 certificate of need to any person under this subsection (6), and  
878 if such long-term care hospital at any time after the issuance of  
879 the certificate of need, regardless of the ownership of the  
880 facility, participates in the Medicaid program or admits or keeps  
881 any patients in the facility who are participating in the Medicaid  
882 program, the State Department of Health shall revoke the  
883 certificate of need, if it is still outstanding, and shall deny or  
884 revoke the license of the long-term care hospital, at the time  
885 that the department determines, after a hearing complying with due  
886 process, that the facility has failed to comply with any of the  
887 conditions upon which the certificate of need was issued, as  
888 provided in this subsection and in the written agreement by the  
889 recipient of the certificate of need. For purposes of this  
890 subsection, the provision of Section 41-7-193(1) requiring  
891 substantial compliance with the projection of need as reported in  
892 the current State Health Plan is hereby waived.

893 (7) The State Department of Health may issue a certificate  
894 of need to any hospital in the state to utilize a portion of its



895 beds for the "swing-bed" concept. Any such hospital must be in  
896 conformance with the federal regulations regarding such swing-bed  
897 concept at the time it submits its application for a certificate  
898 of need to the State Department of Health, except that such  
899 hospital may have more licensed beds or a higher average daily  
900 census (ADC) than the maximum number specified in federal  
901 regulations for participation in the swing-bed program. Any  
902 hospital meeting all federal requirements for participation in the  
903 swing-bed program which receives such certificate of need shall  
904 render services provided under the swing-bed concept to any  
905 patient eligible for Medicare (Title XVIII of the Social Security  
906 Act) who is certified by a physician to be in need of such  
907 services, and no such hospital shall permit any patient who is  
908 eligible for both Medicaid and Medicare or eligible only for  
909 Medicaid to stay in the swing beds of the hospital for more than  
910 thirty (30) days per admission unless the hospital receives prior  
911 approval for such patient from the Division of Medicaid, Office of  
912 the Governor. Any hospital having more licensed beds or a higher  
913 average daily census (ADC) than the maximum number specified in  
914 federal regulations for participation in the swing-bed program  
915 which receives such certificate of need shall develop a procedure  
916 to insure that before a patient is allowed to stay in the swing  
917 beds of the hospital, there are no vacant nursing home beds  
918 available for that patient located within a fifty-mile radius of  
919 the hospital. When any such hospital has a patient staying in the  
920 swing beds of the hospital and the hospital receives notice from a  
921 nursing home located within such radius that there is a vacant bed  
922 available for that patient, the hospital shall transfer the

923 patient to the nursing home within a reasonable time after receipt  
924 of the notice. Any hospital which is subject to the requirements  
925 of the two (2) preceding sentences of this subsection may be  
926 suspended from participation in the swing-bed program for a  
927 reasonable period of time by the State Department of Health if the  
928 department, after a hearing complying with due process, determines  
929 that the hospital has failed to comply with any of those  
930 requirements.

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

935 (9) The Department of Health shall not grant approval for or  
936 issue a certificate of need to any person proposing the  
937 establishment of, or expansion of the currently approved territory  
938 of, or the contracting to establish a home office, subunit or  
939 branch office within the space operated as a health care facility  
940 as defined in Section 41-7-173(h) (i) through (viii) by a health  
941 care facility as defined in subparagraph (ix) of Section  
942 41-7-173(h).

943 (10) Health care facilities owned and/or operated by the  
944 state or its agencies are exempt from the restraints in this  
945 section against issuance of a certificate of need if such addition  
946 or expansion consists of repairing or renovation necessary to  
947 comply with the state licensure law. This exception shall not  
948 apply to the new construction of any building by such state  
949 facility. This exception shall not apply to any health care  
950 facilities owned and/or operated by counties, municipalities,

951 districts, unincorporated areas, other defined persons, or any  
952 combination thereof.

953 (11) The new construction, renovation or expansion of or  
954 addition to any health care facility defined in subparagraph (ii)  
955 (psychiatric hospital), subparagraph (iv) (skilled nursing  
956 facility), subparagraph (vi) (intermediate care facility),  
957 subparagraph (viii) (intermediate care facility for the mentally  
958 retarded) and subparagraph (x) (psychiatric residential treatment  
959 facility) of Section 41-7-173(h) which is owned by the State of  
960 Mississippi and under the direction and control of the State  
961 Department of Mental Health, and the addition of new beds or the  
962 conversion of beds from one category to another in any such  
963 defined health care facility which is owned by the State of  
964 Mississippi and under the direction and control of the State  
965 Department of Mental Health, shall not require the issuance of a  
966 certificate of need under Section 41-7-171 et seq.,  
967 notwithstanding any provision in Section 41-7-171 et seq. to the  
968 contrary.

969 (12) The new construction, renovation or expansion of or  
970 addition to any veterans homes or domiciliaries for eligible  
971 veterans of the State of Mississippi as authorized under Section  
972 35-1-19 shall not require the issuance of a certificate of need,  
973 notwithstanding any provision in Section 41-7-171 et seq. to the  
974 contrary.

975 (13) The new construction of a nursing facility or nursing  
976 facility beds or the conversion of other beds to nursing facility  
977 beds shall not require the issuance of a certificate of need,  
978 notwithstanding any provision in Section 41-7-171 et seq. to the

979 contrary, if the conditions of this subsection are met.

980 (a) Before any construction or conversion may be  
981 undertaken without a certificate of need, the owner of the nursing  
982 facility, in the case of an existing facility, or the applicant to  
983 construct a nursing facility, in the case of new construction,  
984 first must file a written notice of intent and sign a written  
985 agreement with the State Department of Health that the entire  
986 nursing facility will not at any time participate in or have any  
987 beds certified for participation in the Medicaid program (Section  
988 43-13-101 et seq.), will not admit or keep any patients in the  
989 nursing facility who are participating in the Medicaid program,  
990 and will not submit any claim for Medicaid reimbursement for any  
991 patient in the facility. This written agreement by the owner or  
992 applicant shall be a condition of exercising the authority under  
993 this subsection without a certificate of need, and the agreement  
994 shall be fully binding on any subsequent owner of the nursing  
995 facility if the ownership of the facility is transferred at any  
996 time after the agreement is signed. After the written agreement  
997 is signed, the Division of Medicaid and the State Department of  
998 Health shall not certify any beds in the nursing facility for  
999 participation in the Medicaid program. If the nursing facility  
1000 violates the terms of the written agreement by participating in  
1001 the Medicaid program, having any beds certified for participation  
1002 in the Medicaid program, admitting or keeping any patient in the  
1003 facility who is participating in the Medicaid program, or  
1004 submitting any claim for Medicaid reimbursement for any patient in  
1005 the facility, the State Department of Health shall revoke the  
1006 license of the nursing facility at the time that the department

1007 determines, after a hearing complying with due process, that the  
1008 facility has violated the terms of the written agreement.

1009 (b) For the purposes of this subsection, participation  
1010 in the Medicaid program by a nursing facility includes Medicaid  
1011 reimbursement of coinsurance and deductibles for recipients who  
1012 are qualified Medicare beneficiaries and/or those who are dually  
1013 eligible. Any nursing facility exercising the authority under  
1014 this subsection may not bill or submit a claim to the Division of  
1015 Medicaid for services to qualified Medicare beneficiaries and/or  
1016 those who are dually eligible.

1017 (c) The new construction of a nursing facility or  
1018 nursing facility beds or the conversion of other beds to nursing  
1019 facility beds described in this section must be either a part of a  
1020 completely new continuing care retirement community, as described  
1021 in the latest edition of the Mississippi State Health Plan, or an  
1022 addition to existing personal care and independent living  
1023 components, and so that the completed project will be a continuing  
1024 care retirement community, containing (i) independent living  
1025 accommodations, (ii) personal care beds, and (iii) the nursing  
1026 home facility beds. The three (3) components must be located on a  
1027 single site and be operated as one (1) inseparable facility. The  
1028 nursing facility component must contain a minimum of thirty (30)  
1029 beds. Any nursing facility beds authorized by this section will  
1030 not be counted against the bed need set forth in the State Health  
1031 Plan, as identified in Section 41-7-171, et seq.

1032 This subsection (13) shall stand repealed from and after July  
1033 1, 2001.

1034 (14) The State Department of Health shall issue a

1035 certificate of need to any hospital which is currently licensed  
1036 for two hundred fifty (250) or more acute care beds and is located  
1037 in any general hospital service area not having a comprehensive  
1038 cancer center, for the establishment and equipping of such a  
1039 center which provides facilities and services for outpatient  
1040 radiation oncology therapy, outpatient medical oncology therapy,  
1041 and appropriate support services including the provision of  
1042 radiation therapy services. The provision of Section 41-7-193(1)  
1043 regarding substantial compliance with the projection of need as  
1044 reported in the current State Health Plan is waived for the  
1045 purpose of this subsection.

1046 (15) Nothing in this section or in any other provision of  
1047 Section 41-7-171 et seq. shall prevent any nursing facility from  
1048 designating an appropriate number of existing beds in the facility  
1049 as beds for providing care exclusively to patients with  
1050 Alzheimer's disease.

1051 SECTION 2. This act shall take effect and be in force from  
1052 and after July 1, 2000.