

By: Smith (39th)

To: Public Health and  
Welfare;  
Appropriations

HOUSE BILL NO. 1338

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE RESTRICTIONS ON PARTICIPATION IN THE MEDICAID  
3 PROGRAM FOR NURSING HOME BEDS IN LOWNDES COUNTY THAT WERE  
4 AUTHORIZED BY A CERTIFICATE OF NEED; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 41-7-191, Mississippi Code of 1972, is  
7 amended as follows:[RF1]

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

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

13 (b) The relocation of a health care facility or portion  
14 thereof, or major medical equipment, unless such relocation of a  
15 health care facility or portion thereof, or major medical  
16 equipment, which does not involve a capital expenditure by or on  
17 behalf of a health care facility, is within one thousand three  
18 hundred twenty (1,320) feet from the main entrance of the health  
19 care facility;

20 (c) A change over a period of two (2) years' time, as  
21 established by the State Department of Health, in existing bed  
22 complement through the addition of more than ten (10) beds or more  
23 than ten percent (10%) of the total bed capacity of a designated  
24 licensed category or subcategory of any health care facility,  
25 whichever is less, from one physical facility or site to another;  
26 the conversion over a period of two (2) years' time, as  
27 established by the State Department of Health, of existing bed

28 complement of more than ten (10) beds or more than ten percent  
29 (10%) of the total bed capacity of a designated licensed category  
30 or subcategory of any such health care facility, whichever is  
31 less; or the alteration, modernizing or refurbishing of any unit  
32 or department wherein such beds may be located; provided, however,  
33 that from and after July 1, 1994, no health care facility shall be  
34 authorized to add any beds or convert any beds to another category  
35 of beds without a certificate of need under the authority of  
36 subsection (1)(c) of this section unless there is a projected need  
37 for such beds in the planning district in which the facility is  
38 located, as reported in the most current State Health Plan;

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

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

62 (e) The relocation of one or more health services from  
63 one physical facility or site to another physical facility or  
64 site, unless such relocation, which does not involve a capital

65 expenditure by or on behalf of a health care facility, (i) is to a  
66 physical facility or site within one thousand three hundred twenty  
67 (1,320) feet from the main entrance of the health care facility  
68 where the health care service is located, or (ii) is the result of  
69 an order of a court of appropriate jurisdiction or a result of  
70 pending litigation in such court, or by order of the State  
71 Department of Health, or by order of any other agency or legal  
72 entity of the state, the federal government, or any political  
73 subdivision of either, whose order is also approved by the State  
74 Department of Health;

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

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

93 (h) The change of ownership of any health care facility  
94 defined in subparagraphs (iv), (vi) and (viii) of Section  
95 41-7-173(h), in which a notice of intent as described in paragraph  
96 (g) has not been filed and if the Executive Director, Division of  
97 Medicaid, Office of the Governor, has not certified in writing

98 that there will be no increase in allowable costs to Medicaid from  
99 revaluation of the assets or from increased interest and  
100 depreciation as a result of the proposed change of ownership;

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

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

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

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

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

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

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

164 by the recipient of the certificate of need. The total number of  
165 beds that may be authorized under the authority of this paragraph  
166 (c) shall not exceed sixty (60) beds.

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

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

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

192 (g) The State Department of Health may issue a  
193 certificate of need for the construction or expansion of nursing  
194 facility beds or the conversion of other beds to nursing facility  
195 beds in either Hinds, Madison or Rankin Counties, not to exceed  
196 sixty (60) beds. From and after July 1, 1999, there shall be no

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

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

208 (i) The department may issue a certificate of need for  
209 the new construction of a skilled nursing facility in Leake  
210 County, provided that the recipient of the certificate of need  
211 agrees in writing that the skilled nursing facility will not at  
212 any time participate in the Medicaid program (Section 43-13-101 et  
213 seq.) or admit or keep any patients in the skilled nursing  
214 facility who are participating in the Medicaid program. This  
215 written agreement by the recipient of the certificate of need  
216 shall be fully binding on any subsequent owner of the skilled  
217 nursing facility, if the ownership of the facility is transferred  
218 at any time after the issuance of the certificate of need.  
219 Agreement that the skilled nursing facility will not participate  
220 in the Medicaid program shall be a condition of the issuance of a  
221 certificate of need to any person under this paragraph (i), and if  
222 such skilled nursing facility at any time after the issuance of  
223 the certificate of need, regardless of the ownership of the  
224 facility, participates in the Medicaid program or admits or keeps  
225 any patients in the facility who are participating in the Medicaid  
226 program, the State Department of Health shall revoke the  
227 certificate of need, if it is still outstanding, and shall deny or  
228 revoke the license of the skilled nursing facility, at the time  
229 that the department determines, after a hearing complying with due

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

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

258 (k) The department may issue a certificate of need for  
259 the construction of a nursing facility at a continuing care  
260 retirement community in Lowndes County \* \* \*. The total number of  
261 beds that may be authorized under the authority of this paragraph  
262 (k) shall not exceed sixty (60) beds. From and after July 1,



263 2000, there shall be no prohibition or restrictions on  
264 participation in the Medicaid program (Section 43-13-101 et seq.)  
265 for the beds in the nursing facility that were authorized under  
266 this paragraph (k).

267 (l) Provided that funds are specifically appropriated  
268 therefor by the Legislature, the department may issue a  
269 certificate of need to a rehabilitation hospital in Hinds County  
270 for the construction of a sixty-bed long-term care nursing  
271 facility dedicated to the care and treatment of persons with  
272 severe disabilities including persons with spinal cord and  
273 closed-head injuries and ventilator-dependent patients. The  
274 provision of Section 41-7-193(1) regarding substantial compliance  
275 with projection of need as reported in the current State Health  
276 Plan is hereby waived for the purpose of this paragraph.

277 (m) The State Department of Health may issue a  
278 certificate of need to a county-owned hospital in the Second  
279 Judicial District of Panola County for the conversion of not more  
280 than seventy-two (72) hospital beds to nursing facility beds,  
281 provided that the recipient of the certificate of need agrees in  
282 writing that none of the beds at the nursing facility will be  
283 certified for participation in the Medicaid program (Section  
284 43-13-101 et seq.), and that no claim will be submitted for  
285 Medicaid reimbursement in the nursing facility in any day or for  
286 any patient in the nursing facility. This written agreement by  
287 the recipient of the certificate of need shall be a condition of  
288 the issuance of the certificate of need under this paragraph, and  
289 the agreement shall be fully binding on any subsequent owner of  
290 the nursing facility if the ownership of the nursing facility is  
291 transferred at any time after the issuance of the certificate of  
292 need. After this written agreement is executed, the Division of  
293 Medicaid and the State Department of Health shall not certify any  
294 of the beds in the nursing facility for participation in the  
295 Medicaid program. If the nursing facility violates the terms of

296 the written agreement by admitting or keeping in the nursing  
297 facility on a regular or continuing basis any patients who are  
298 participating in the Medicaid program, the State Department of  
299 Health shall revoke the license of the nursing facility, at the  
300 time that the department determines, after a hearing complying  
301 with due process, that the nursing facility has violated the  
302 condition upon which the certificate of need was issued, as  
303 provided in this paragraph and in the written agreement. If the  
304 certificate of need authorized under this paragraph is not issued  
305 within twelve (12) months after July 1, 2001, the department shall  
306 deny the application for the certificate of need and shall not  
307 issue the certificate of need at any time after the twelve-month  
308 period, unless the issuance is contested. If the certificate of  
309 need is issued and substantial construction of the nursing  
310 facility beds has not commenced within eighteen (18) months after  
311 July 1, 2001, the State Department of Health, after a hearing  
312 complying with due process, shall revoke the certificate of need  
313 if it is still outstanding, and the department shall not issue a  
314 license for the nursing facility at any time after the  
315 eighteen-month period. Provided, however, that if the issuance of  
316 the certificate of need is contested, the department shall require  
317 substantial construction of the nursing facility beds within six  
318 (6) months after final adjudication on the issuance of the  
319 certificate of need.

320 (n) The department may issue a certificate of need for  
321 the new construction, addition or conversion of skilled nursing  
322 facility beds in Madison County, provided that the recipient of  
323 the certificate of need agrees in writing that the skilled nursing  
324 facility will not at any time participate in the Medicaid program  
325 (Section 43-13-101 et seq.) or admit or keep any patients in the  
326 skilled nursing facility who are participating in the Medicaid  
327 program. This written agreement by the recipient of the  
328 certificate of need shall be fully binding on any subsequent owner

329 of the skilled nursing facility, if the ownership of the facility  
330 is transferred at any time after the issuance of the certificate  
331 of need. Agreement that the skilled nursing facility will not  
332 participate in the Medicaid program shall be a condition of the  
333 issuance of a certificate of need to any person under this  
334 paragraph (n), and if such skilled nursing facility at any time  
335 after the issuance of the certificate of need, regardless of the  
336 ownership of the facility, participates in the Medicaid program or  
337 admits or keeps any patients in the facility who are participating  
338 in the Medicaid program, the State Department of Health shall  
339 revoke the certificate of need, if it is still outstanding, and  
340 shall deny or revoke the license of the skilled nursing facility,  
341 at the time that the department determines, after a hearing  
342 complying with due process, that the facility has failed to comply  
343 with any of the conditions upon which the certificate of need was  
344 issued, as provided in this paragraph and in the written agreement  
345 by the recipient of the certificate of need. The total number of  
346 nursing facility beds that may be authorized by any certificate of  
347 need issued under this paragraph (n) shall not exceed sixty (60)  
348 beds. If the certificate of need authorized under this paragraph  
349 is not issued within twelve (12) months after July 1, 1998, the  
350 department shall deny the application for the certificate of need  
351 and shall not issue the certificate of need at any time after the  
352 twelve-month period, unless the issuance is contested. If the  
353 certificate of need is issued and substantial construction of the  
354 nursing facility beds has not commenced within eighteen (18)  
355 months after the effective date of July 1, 1998, the State  
356 Department of Health, after a hearing complying with due process,  
357 shall revoke the certificate of need if it is still outstanding,  
358 and the department shall not issue a license for the nursing  
359 facility at any time after the eighteen-month period. Provided,  
360 however, that if the issuance of the certificate of need is  
361 contested, the department shall require substantial construction

362 of the nursing facility beds within six (6) months after final  
363 adjudication on the issuance of the certificate of need.

364 (o) The department may issue a certificate of need for  
365 the new construction, addition or conversion of skilled nursing  
366 facility beds in Leake County, provided that the recipient of the  
367 certificate of need agrees in writing that the skilled nursing  
368 facility will not at any time participate in the Medicaid program  
369 (Section 43-13-101 et seq.) or admit or keep any patients in the  
370 skilled nursing facility who are participating in the Medicaid  
371 program. This written agreement by the recipient of the  
372 certificate of need shall be fully binding on any subsequent owner  
373 of the skilled nursing facility, if the ownership of the facility  
374 is transferred at any time after the issuance of the certificate  
375 of need. Agreement that the skilled nursing facility will not  
376 participate in the Medicaid program shall be a condition of the  
377 issuance of a certificate of need to any person under this  
378 paragraph (o), and if such skilled nursing facility at any time  
379 after the issuance of the certificate of need, regardless of the  
380 ownership of the facility, participates in the Medicaid program or  
381 admits or keeps any patients in the facility who are participating  
382 in the Medicaid program, the State Department of Health shall  
383 revoke the certificate of need, if it is still outstanding, and  
384 shall deny or revoke the license of the skilled nursing facility,  
385 at the time that the department determines, after a hearing  
386 complying with due process, that the facility has failed to comply  
387 with any of the conditions upon which the certificate of need was  
388 issued, as provided in this paragraph and in the written agreement  
389 by the recipient of the certificate of need. The total number of  
390 nursing facility beds that may be authorized by any certificate of  
391 need issued under this paragraph (o) shall not exceed sixty (60)  
392 beds. If the certificate of need authorized under this paragraph  
393 is not issued within twelve (12) months after July 1, 2001, the  
394 department shall deny the application for the certificate of need

395 and shall not issue the certificate of need at any time after the  
396 twelve-month period, unless the issuance is contested. If the  
397 certificate of need is issued and substantial construction of the  
398 nursing facility beds has not commenced within eighteen (18)  
399 months after the effective date of July 1, 2001, the State  
400 Department of Health, after a hearing complying with due process,  
401 shall revoke the certificate of need if it is still outstanding,  
402 and the department shall not issue a license for the nursing  
403 facility at any time after the eighteen-month period. Provided,  
404 however, that if the issuance of the certificate of need is  
405 contested, the department shall require substantial construction  
406 of the nursing facility beds within six (6) months after final  
407 adjudication on the issuance of the certificate of need.

408           (p) The department may issue a certificate of need for  
409 the construction of a municipally-owned nursing facility within  
410 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
411 beds, provided that the recipient of the certificate of need  
412 agrees in writing that the skilled nursing facility will not at  
413 any time participate in the Medicaid program (Section 43-13-101 et  
414 seq.) or admit or keep any patients in the skilled nursing  
415 facility who are participating in the Medicaid program. This  
416 written agreement by the recipient of the certificate of need  
417 shall be fully binding on any subsequent owner of the skilled  
418 nursing facility, if the ownership of the facility is transferred  
419 at any time after the issuance of the certificate of need.  
420 Agreement that the skilled nursing facility will not participate  
421 in the Medicaid program shall be a condition of the issuance of a  
422 certificate of need to any person under this paragraph (p), and if  
423 such skilled nursing facility at any time after the issuance of  
424 the certificate of need, regardless of the ownership of the  
425 facility, participates in the Medicaid program or admits or keeps  
426 any patients in the facility who are participating in the Medicaid  
427 program, the State Department of Health shall revoke the

428 certificate of need, if it is still outstanding, and shall deny or  
429 revoke the license of the skilled nursing facility, at the time  
430 that the department determines, after a hearing complying with due  
431 process, that the facility has failed to comply with any of the  
432 conditions upon which the certificate of need was issued, as  
433 provided in this paragraph and in the written agreement by the  
434 recipient of the certificate of need. The provision of Section  
435 43-7-193(1) regarding substantial compliance of the projection of  
436 need as reported in the current State Health Plan is waived for  
437 the purposes of this paragraph. If the certificate of need  
438 authorized under this paragraph is not issued within twelve (12)  
439 months after July 1, 1998, the department shall deny the  
440 application for the certificate of need and shall not issue the  
441 certificate of need at any time after the twelve-month period,  
442 unless the issuance is contested. If the certificate of need is  
443 issued and substantial construction of the nursing facility beds  
444 has not commenced within eighteen (18) months after July 1, 1998,  
445 the State Department of Health, after a hearing complying with due  
446 process, shall revoke the certificate of need if it is still  
447 outstanding, and the department shall not issue a license for the  
448 nursing facility at any time after the eighteen-month period.  
449 Provided, however, that if the issuance of the certificate of need  
450 is contested, the department shall require substantial  
451 construction of the nursing facility beds within six (6) months  
452 after final adjudication on the issuance of the certificate of  
453 need.

454           (q) (i) Beginning on July 1, 1999, the State  
455 Department of Health shall issue certificates of need during each  
456 of the next four (4) fiscal years for the construction or  
457 expansion of nursing facility beds or the conversion of other beds  
458 to nursing facility beds in each county in the state having a need  
459 for fifty (50) or more additional nursing facility beds, as shown  
460 in the fiscal year 1999 State Health Plan, in the manner provided

461 in this paragraph (q). The total number of nursing facility beds  
462 that may be authorized by any certificate of need authorized under  
463 this paragraph (q) shall not exceed sixty (60) beds.

464 (ii) Subject to the provisions of subparagraph  
465 (v), during each of the next four (4) fiscal years, the department  
466 shall issue six (6) certificates of need for new nursing facility  
467 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
468 (1) certificate of need shall be issued for new nursing facility  
469 beds in the county in each of the four (4) Long-Term Care Planning  
470 Districts designated in the fiscal year 1999 State Health Plan  
471 that has the highest need in the district for those beds; and two  
472 (2) certificates of need shall be issued for new nursing facility  
473 beds in the two (2) counties from the state at large that have the  
474 highest need in the state for those beds, when considering the  
475 need on a statewide basis and without regard to the Long-Term Care  
476 Planning Districts in which the counties are located. During  
477 fiscal year 2003, one (1) certificate of need shall be issued for  
478 new nursing facility beds in any county having a need for fifty  
479 (50) or more additional nursing facility beds, as shown in the  
480 fiscal year 1999 State Health Plan, that has not received a  
481 certificate of need under this paragraph (q) during the three (3)  
482 previous fiscal years. During fiscal year 2000, in addition to  
483 the six (6) certificates of need authorized in this subparagraph,  
484 the department also shall issue a certificate of need for new  
485 nursing facility beds in Amite County and a certificate of need  
486 for new nursing facility beds in Carroll County.

487 (iii) Subject to the provisions of subparagraph  
488 (v), the certificate of need issued under subparagraph (ii) for  
489 nursing facility beds in each Long-Term Care Planning District  
490 during each fiscal year shall first be available for nursing  
491 facility beds in the county in the district having the highest  
492 need for those beds, as shown in the fiscal year 1999 State Health  
493 Plan. If there are no applications for a certificate of need for

494 nursing facility beds in the county having the highest need for  
495 those beds by the date specified by the department, then the  
496 certificate of need shall be available for nursing facility beds  
497 in other counties in the district in descending order of the need  
498 for those beds, from the county with the second highest need to  
499 the county with the lowest need, until an application is received  
500 for nursing facility beds in an eligible county in the district.

501           (iv) Subject to the provisions of subparagraph  
502 (v), the certificate of need issued under subparagraph (ii) for  
503 nursing facility beds in the two (2) counties from the state at  
504 large during each fiscal year shall first be available for nursing  
505 facility beds in the two (2) counties that have the highest need  
506 in the state for those beds, as shown in the fiscal year 1999  
507 State Health Plan, when considering the need on a statewide basis  
508 and without regard to the Long-Term Care Planning Districts in  
509 which the counties are located. If there are no applications for  
510 a certificate of need for nursing facility beds in either of the  
511 two (2) counties having the highest need for those beds on a  
512 statewide basis by the date specified by the department, then the  
513 certificate of need shall be available for nursing facility beds  
514 in other counties from the state at large in descending order of  
515 the need for those beds on a statewide basis, from the county with  
516 the second highest need to the county with the lowest need, until  
517 an application is received for nursing facility beds in an  
518 eligible county from the state at large.

519           (v) If a certificate of need is authorized to be  
520 issued under this paragraph (q) for nursing facility beds in a  
521 county on the basis of the need in the Long-Term Care Planning  
522 District during any fiscal year of the four-year period, a  
523 certificate of need shall not also be available under this  
524 paragraph (q) for additional nursing facility beds in that county  
525 on the basis of the need in the state at large, and that county  
526 shall be excluded in determining which counties have the highest



527 need for nursing facility beds in the state at large for that  
528 fiscal year. After a certificate of need has been issued under  
529 this paragraph (q) for nursing facility beds in a county during  
530 any fiscal year of the four-year period, a certificate of need  
531 shall not be available again under this paragraph (q) for  
532 additional nursing facility beds in that county during the  
533 four-year period, and that county shall be excluded in determining  
534 which counties have the highest need for nursing facility beds in  
535 succeeding fiscal years.

536 (r) (i) Beginning on July 1, 1999, the State  
537 Department of Health shall issue certificates of need during each  
538 of the next two (2) fiscal years for the construction or expansion  
539 of nursing facility beds or the conversion of other beds to  
540 nursing facility beds in each of the four (4) Long-Term Care  
541 Planning Districts designated in the fiscal year 1999 State Health  
542 Plan, to provide care exclusively to patients with Alzheimer's  
543 disease.

544 (ii) Not more than twenty (20) beds may be  
545 authorized by any certificate of need issued under this paragraph  
546 (r), and not more than a total of sixty (60) beds may be  
547 authorized in any Long-Term Care Planning District by all  
548 certificates of need issued under this paragraph (r). However,  
549 the total number of beds that may be authorized by all  
550 certificates of need issued under this paragraph (r) during any  
551 fiscal year shall not exceed one hundred twenty (120) beds, and  
552 the total number of beds that may be authorized in any Long-Term  
553 Care Planning District during any fiscal year shall not exceed  
554 forty (40) beds. Of the certificates of need that are issued for  
555 each Long-Term Care Planning District during the next two (2)  
556 fiscal years, at least one (1) shall be issued for beds in the  
557 northern part of the district, at least one (1) shall be issued  
558 for beds in the central part of the district, and at least one (1)  
559 shall be issued for beds in the southern part of the district.

560 (iii) The State Department of Health, in  
561 consultation with the Department of Mental Health and the Division  
562 of Medicaid, shall develop and prescribe the staffing levels,  
563 space requirements and other standards and requirements that must  
564 be met with regard to the nursing facility beds authorized under  
565 this paragraph (r) to provide care exclusively to patients with  
566 Alzheimer's disease.

567 (3) The State Department of Health may grant approval for  
568 and issue certificates of need to any person proposing the new  
569 construction of, addition to, conversion of beds of or expansion  
570 of any health care facility defined in subparagraph (x)  
571 (psychiatric residential treatment facility) of Section  
572 41-7-173(h). The total number of beds which may be authorized by  
573 such certificates of need shall not exceed two hundred  
574 seventy-four (274) beds for the entire state.

575 (a) Of the total number of beds authorized under this  
576 subsection, the department shall issue a certificate of need to a  
577 privately owned psychiatric residential treatment facility in  
578 Simpson County for the conversion of sixteen (16) intermediate  
579 care facility for the mentally retarded (ICF-MR) beds to  
580 psychiatric residential treatment facility beds, provided that  
581 facility agrees in writing that the facility shall give priority  
582 for the use of those sixteen (16) beds to Mississippi residents  
583 who are presently being treated in out-of-state facilities.

584 (b) Of the total number of beds authorized under this  
585 subsection, the department may issue a certificate or certificates  
586 of need for the construction or expansion of psychiatric  
587 residential treatment facility beds or the conversion of other  
588 beds to psychiatric residential treatment facility beds in Warren  
589 County, not to exceed sixty (60) psychiatric residential treatment  
590 facility beds, provided that the facility agrees in writing that  
591 no more than thirty (30) of the beds at the psychiatric  
592 residential treatment facility will be certified for participation

593 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
594 any patients other than those who are participating only in the  
595 Medicaid program of another state, and that no claim will be  
596 submitted to the Division of Medicaid for Medicaid reimbursement  
597 for more than thirty (30) patients in the psychiatric residential  
598 treatment facility in any day or for any patient in the  
599 psychiatric residential treatment facility who is in a bed that is  
600 not Medicaid-certified. This written agreement by the recipient  
601 of the certificate of need shall be a condition of the issuance of  
602 the certificate of need under this paragraph, and the agreement  
603 shall be fully binding on any subsequent owner of the psychiatric  
604 residential treatment facility if the ownership of the facility is  
605 transferred at any time after the issuance of the certificate of  
606 need. After this written agreement is executed, the Division of  
607 Medicaid and the State Department of Health shall not certify more  
608 than thirty (30) of the beds in the psychiatric residential  
609 treatment facility for participation in the Medicaid program for  
610 the use of any patients other than those who are participating  
611 only in the Medicaid program of another state. If the psychiatric  
612 residential treatment facility violates the terms of the written  
613 agreement by admitting or keeping in the facility on a regular or  
614 continuing basis more than thirty (30) patients who are  
615 participating in the Mississippi Medicaid program, the State  
616 Department of Health shall revoke the license of the facility, at  
617 the time that the department determines, after a hearing complying  
618 with due process, that the facility has violated the condition  
619 upon which the certificate of need was issued, as provided in this  
620 paragraph and in the written agreement.

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

626 County, provided that the hospital agrees in writing (i) that the  
627 hospital shall give priority for the use of those forty (40) beds  
628 to Mississippi residents who are presently being treated in  
629 out-of-state facilities, and (ii) that no more than fifteen (15)  
630 of the beds at the psychiatric residential treatment facility will  
631 be certified for participation in the Medicaid program (Section  
632 43-13-101 et seq.), and that no claim will be submitted for  
633 Medicaid reimbursement for more than fifteen (15) patients in the  
634 psychiatric residential treatment facility in any day or for any  
635 patient in the psychiatric residential treatment facility who is  
636 in a bed that is not Medicaid-certified. This written agreement  
637 by the recipient of the certificate of need shall be a condition  
638 of the issuance of the certificate of need under this paragraph,  
639 and the agreement shall be fully binding on any subsequent owner  
640 of the psychiatric residential treatment facility if the ownership  
641 of the facility is transferred at any time after the issuance of  
642 the certificate of need. After this written agreement is  
643 executed, the Division of Medicaid and the State Department of  
644 Health shall not certify more than fifteen (15) of the beds in the  
645 psychiatric residential treatment facility for participation in  
646 the Medicaid program. If the psychiatric residential treatment  
647 facility violates the terms of the written agreement by admitting  
648 or keeping in the facility on a regular or continuing basis more  
649 than fifteen (15) patients who are participating in the Medicaid  
650 program, the State Department of Health shall revoke the license  
651 of the facility, at the time that the department determines, after  
652 a hearing complying with due process, that the facility has  
653 violated the condition upon which the certificate of need was  
654 issued, as provided in this paragraph and in the written  
655 agreement.

656 (d) Of the total number of beds authorized under this  
657 subsection, the department may issue a certificate or certificates  
658 of need for the construction or expansion of psychiatric

659 residential treatment facility beds or the conversion of other  
660 beds to psychiatric treatment facility beds, not to exceed thirty  
661 (30) psychiatric residential treatment facility beds, in either  
662 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
663 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

664 (e) Of the total number of beds authorized under this  
665 subsection (3) the department shall issue a certificate of need to  
666 a privately owned, nonprofit psychiatric residential treatment  
667 facility in Hinds County for an eight-bed expansion of the  
668 facility, provided that the facility agrees in writing that the  
669 facility shall give priority for the use of those eight (8) beds  
670 to Mississippi residents who are presently being treated in  
671 out-of-state facilities.

672 (4) (a) From and after July 1, 1993, the department shall  
673 not issue a certificate of need to any person for the new  
674 construction of any hospital, psychiatric hospital or chemical  
675 dependency hospital that will contain any child/adolescent  
676 psychiatric or child/adolescent chemical dependency beds, or for  
677 the conversion of any other health care facility to a hospital,  
678 psychiatric hospital or chemical dependency hospital that will  
679 contain any child/adolescent psychiatric or child/adolescent  
680 chemical dependency beds, or for the addition of any  
681 child/adolescent psychiatric or child/adolescent chemical  
682 dependency beds in any hospital, psychiatric hospital or chemical  
683 dependency hospital, or for the conversion of any beds of another  
684 category in any hospital, psychiatric hospital or chemical  
685 dependency hospital to child/adolescent psychiatric or  
686 child/adolescent chemical dependency beds, except as hereinafter  
687 authorized:

688 (i) The department may issue certificates of need  
689 to any person for any purpose described in this subsection,  
690 provided that the hospital, psychiatric hospital or chemical  
691 dependency hospital does not participate in the Medicaid program

692 (Section 43-13-101 et seq.) at the time of the application for the  
693 certificate of need and the owner of the hospital, psychiatric  
694 hospital or chemical dependency hospital agrees in writing that  
695 the hospital, psychiatric hospital or chemical dependency hospital  
696 will not at any time participate in the Medicaid program or admit  
697 or keep any patients who are participating in the Medicaid program  
698 in the hospital, psychiatric hospital or chemical dependency  
699 hospital. This written agreement by the recipient of the  
700 certificate of need shall be fully binding on any subsequent owner  
701 of the hospital, psychiatric hospital or chemical dependency  
702 hospital, if the ownership of the facility is transferred at any  
703 time after the issuance of the certificate of need. Agreement  
704 that the hospital, psychiatric hospital or chemical dependency  
705 hospital will not participate in the Medicaid program shall be a  
706 condition of the issuance of a certificate of need to any person  
707 under this subparagraph (a)(i), and if such hospital, psychiatric  
708 hospital or chemical dependency hospital at any time after the  
709 issuance of the certificate of need, regardless of the ownership  
710 of the facility, participates in the Medicaid program or admits or  
711 keeps any patients in the hospital, psychiatric hospital or  
712 chemical dependency hospital who are participating in the Medicaid  
713 program, the State Department of Health shall revoke the  
714 certificate of need, if it is still outstanding, and shall deny or  
715 revoke the license of the hospital, psychiatric hospital or  
716 chemical dependency hospital, at the time that the department  
717 determines, after a hearing complying with due process, that the  
718 hospital, psychiatric hospital or chemical dependency hospital has  
719 failed to comply with any of the conditions upon which the  
720 certificate of need was issued, as provided in this subparagraph  
721 and in the written agreement by the recipient of the certificate  
722 of need.

723 (ii) The department may issue a certificate of  
724 need for the conversion of existing beds in a county hospital in

725 Choctaw County from acute care beds to child/adolescent chemical  
726 dependency beds. For purposes of this subparagraph, the  
727 provisions of Section 41-7-193(1) requiring substantial compliance  
728 with the projection of need as reported in the current State  
729 Health Plan is waived. The total number of beds that may be  
730 authorized under authority of this subparagraph shall not exceed  
731 twenty (20) beds. There shall be no prohibition or restrictions  
732 on participation in the Medicaid program (Section 43-13-101 et  
733 seq.) for the hospital receiving the certificate of need  
734 authorized under this subparagraph (a)(ii) or for the beds  
735 converted pursuant to the authority of that certificate of need.

736 (iii) The department may issue a certificate or  
737 certificates of need for the construction or expansion of  
738 child/adolescent psychiatric beds or the conversion of other beds  
739 to child/adolescent psychiatric beds in Warren County. For  
740 purposes of this subparagraph, the provisions of Section  
741 41-7-193(1) requiring substantial compliance with the projection  
742 of need as reported in the current State Health Plan are waived.  
743 The total number of beds that may be authorized under the  
744 authority of this subparagraph shall not exceed twenty (20) beds.

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

750 (iv) The department shall issue a certificate of  
751 need to the Region 7 Mental Health/Retardation Commission for the  
752 construction or expansion of child/adolescent psychiatric beds or  
753 the conversion of other beds to child/adolescent psychiatric beds  
754 in any of the counties served by the commission. For purposes of  
755 this subparagraph, the provisions of Section 41-7-193(1) requiring  
756 substantial compliance with the projection of need as reported in  
757 the current State Health Plan is waived. The total number of beds

758 that may be authorized under the authority of this subparagraph  
759 shall not exceed twenty (20) beds. There shall be no prohibition  
760 or restrictions on participation in the Medicaid program (Section  
761 43-13-101 et seq.) for the person receiving the certificate of  
762 need authorized under this subparagraph (a)(iv) or for the beds  
763 converted pursuant to the authority of that certificate of need.

764 (v) The department may issue a certificate of need  
765 to any county hospital located in Leflore County for the  
766 construction or expansion of adult psychiatric beds or the  
767 conversion of other beds to adult psychiatric beds, not to exceed  
768 twenty (20) beds, provided that the recipient of the certificate  
769 of need agrees in writing that the adult psychiatric beds will not  
770 at any time be certified for participation in the Medicaid program  
771 and that the hospital will not admit or keep any patients who are  
772 participating in the Medicaid program in any of such adult  
773 psychiatric beds. This written agreement by the recipient of the  
774 certificate of need shall be fully binding on any subsequent owner  
775 of the hospital if the ownership of the hospital is transferred at  
776 any time after the issuance of the certificate of need. Agreement  
777 that the adult psychiatric beds will not be certified for  
778 participation in the Medicaid program shall be a condition of the  
779 issuance of a certificate of need to any person under this  
780 subparagraph (a)(v), and if such hospital at any time after the  
781 issuance of the certificate of need, regardless of the ownership  
782 of the hospital, has any of such adult psychiatric beds certified  
783 for participation in the Medicaid program or admits or keeps any  
784 Medicaid patients in such adult psychiatric beds, the State  
785 Department of Health shall revoke the certificate of need, if it  
786 is still outstanding, and shall deny or revoke the license of the  
787 hospital at the time that the department determines, after a  
788 hearing complying with due process, that the hospital has failed  
789 to comply with any of the conditions upon which the certificate of  
790 need was issued, as provided in this subparagraph and in the



791 written agreement by the recipient of the certificate of need.

792                   (vi) The department may issue a certificate or  
793 certificates of need for the expansion of child psychiatric beds  
794 or the conversion of other beds to child psychiatric beds at the  
795 University of Mississippi Medical Center. For purposes of this  
796 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
797 requiring substantial compliance with the projection of need as  
798 reported in the current State Health Plan is waived. The total  
799 number of beds that may be authorized under the authority of this  
800 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
801 shall be no prohibition or restrictions on participation in the  
802 Medicaid program (Section 43-13-101 et seq.) for the hospital  
803 receiving the certificate of need authorized under this  
804 subparagraph (a)(vi) or for the beds converted pursuant to the  
805 authority of that certificate of need.

806                   (b) From and after July 1, 1990, no hospital,  
807 psychiatric hospital or chemical dependency hospital shall be  
808 authorized to add any child/adolescent psychiatric or  
809 child/adolescent chemical dependency beds or convert any beds of  
810 another category to child/adolescent psychiatric or  
811 child/adolescent chemical dependency beds without a certificate of  
812 need under the authority of subsection (1)(c) of this section.

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

816                   (6) The State Department of Health shall issue a certificate  
817 of need to a Mississippi corporation qualified to manage a  
818 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
819 Harrison County, not to exceed eighty (80) beds, including any  
820 necessary renovation or construction required for licensure and  
821 certification, provided that the recipient of the certificate of  
822 need agrees in writing that the long-term care hospital will not  
823 at any time participate in the Medicaid program (Section 43-13-101

824 et seq.) or admit or keep any patients in the long-term care  
825 hospital who are participating in the Medicaid program. This  
826 written agreement by the recipient of the certificate of need  
827 shall be fully binding on any subsequent owner of the long-term  
828 care hospital, if the ownership of the facility is transferred at  
829 any time after the issuance of the certificate of need. Agreement  
830 that the long-term care hospital will not participate in the  
831 Medicaid program shall be a condition of the issuance of a  
832 certificate of need to any person under this subsection (6), and  
833 if such long-term care hospital at any time after the issuance of  
834 the certificate of need, regardless of the ownership of the  
835 facility, participates in the Medicaid program or admits or keeps  
836 any patients in the facility who are participating in the Medicaid  
837 program, the State Department of Health shall revoke the  
838 certificate of need, if it is still outstanding, and shall deny or  
839 revoke the license of the long-term care hospital, at the time  
840 that the department determines, after a hearing complying with due  
841 process, that the facility has failed to comply with any of the  
842 conditions upon which the certificate of need was issued, as  
843 provided in this subsection and in the written agreement by the  
844 recipient of the certificate of need. For purposes of this  
845 subsection, the provision 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 hereby waived.

848 (7) The State Department of Health may issue a certificate  
849 of need to any hospital in the state to utilize a portion of its  
850 beds for the "swing-bed" concept. Any such hospital must be in  
851 conformance with the federal regulations regarding such swing-bed  
852 concept at the time it submits its application for a certificate  
853 of need to the State Department of Health, except that such  
854 hospital may have more licensed beds or a higher average daily  
855 census (ADC) than the maximum number specified in federal  
856 regulations for participation in the swing-bed program. Any

857 hospital meeting all federal requirements for participation in the  
858 swing-bed program which receives such certificate of need shall  
859 render services provided under the swing-bed concept to any  
860 patient eligible for Medicare (Title XVIII of the Social Security  
861 Act) who is certified by a physician to be in need of such  
862 services, and no such hospital shall permit any patient who is  
863 eligible for both Medicaid and Medicare or eligible only for  
864 Medicaid to stay in the swing beds of the hospital for more than  
865 thirty (30) days per admission unless the hospital receives prior  
866 approval for such patient from the Division of Medicaid, Office of  
867 the Governor. Any hospital having more licensed beds or a higher  
868 average daily census (ADC) than the maximum number specified in  
869 federal regulations for participation in the swing-bed program  
870 which receives such certificate of need shall develop a procedure  
871 to insure that before a patient is allowed to stay in the swing  
872 beds of the hospital, there are no vacant nursing home beds  
873 available for that patient located within a fifty-mile radius of  
874 the hospital. When any such hospital has a patient staying in the  
875 swing beds of the hospital and the hospital receives notice from a  
876 nursing home located within such radius that there is a vacant bed  
877 available for that patient, the hospital shall transfer the  
878 patient to the nursing home within a reasonable time after receipt  
879 of the notice. Any hospital which is subject to the requirements  
880 of the two (2) preceding sentences of this subsection may be  
881 suspended from participation in the swing-bed program for a  
882 reasonable period of time by the State Department of Health if the  
883 department, after a hearing complying with due process, determines  
884 that the hospital has failed to comply with any of those  
885 requirements.

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

890 (9) The Department of Health shall not grant approval for or  
891 issue a certificate of need to any person proposing the  
892 establishment of, or expansion of the currently approved territory  
893 of, or the contracting to establish a home office, subunit or  
894 branch office within the space operated as a health care facility  
895 as defined in Section 41-7-173(h)(i) through (viii) by a health  
896 care facility as defined in subparagraph (ix) of Section  
897 41-7-173(h).

898 (10) Health care facilities owned and/or operated by the  
899 state or its agencies are exempt from the restraints in this  
900 section against issuance of a certificate of need if such addition  
901 or expansion consists of repairing or renovation necessary to  
902 comply with the state licensure law. This exception shall not  
903 apply to the new construction of any building by such state  
904 facility. This exception shall not apply to any health care  
905 facilities owned and/or operated by counties, municipalities,  
906 districts, unincorporated areas, other defined persons, or any  
907 combination thereof.

908 (11) The new construction, renovation or expansion of or  
909 addition to any health care facility defined in subparagraph (ii)  
910 (psychiatric hospital), subparagraph (iv) (skilled nursing  
911 facility), subparagraph (vi) (intermediate care facility),  
912 subparagraph (viii) (intermediate care facility for the mentally  
913 retarded) and subparagraph (x) (psychiatric residential treatment  
914 facility) of Section 41-7-173(h) which is owned by the State of  
915 Mississippi and under the direction and control of the State  
916 Department of Mental Health, and the addition of new beds or the  
917 conversion of beds from one category to another in any such  
918 defined health care facility which is owned by the State of  
919 Mississippi and under the direction and control of the State  
920 Department of Mental Health, shall not require the issuance of a  
921 certificate of need under Section 41-7-171 et seq.,  
922 notwithstanding any provision in Section 41-7-171 et seq. to the

923 contrary.

924 (12) The new construction, renovation or expansion of or  
925 addition to any veterans homes or domiciliaries for eligible  
926 veterans of the State of Mississippi as authorized under Section  
927 35-1-19 shall not require the issuance of a certificate of need,  
928 notwithstanding any provision in Section 41-7-171 et seq. to the  
929 contrary.

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

935 (a) Before any construction or conversion may be  
936 undertaken without a certificate of need, the owner of the nursing  
937 facility, in the case of an existing facility, or the applicant to  
938 construct a nursing facility, in the case of new construction,  
939 first must file a written notice of intent and sign a written  
940 agreement with the State Department of Health that the entire  
941 nursing facility will not at any time participate in or have any  
942 beds certified for participation in the Medicaid program (Section  
943 43-13-101 et seq.), will not admit or keep any patients in the  
944 nursing facility who are participating in the Medicaid program,  
945 and will not submit any claim for Medicaid reimbursement for any  
946 patient in the facility. This written agreement by the owner or  
947 applicant shall be a condition of exercising the authority under  
948 this subsection without a certificate of need, and the agreement  
949 shall be fully binding on any subsequent owner of the nursing  
950 facility if the ownership of the facility is transferred at any  
951 time after the agreement is signed. After the written agreement  
952 is signed, the Division of Medicaid and the State Department of  
953 Health shall not certify any beds in the nursing facility for  
954 participation in the Medicaid program. If the nursing facility  
955 violates the terms of the written agreement by participating in

956 the Medicaid program, having any beds certified for participation  
957 in the Medicaid program, admitting or keeping any patient in the  
958 facility who is participating in the Medicaid program, or  
959 submitting any claim for Medicaid reimbursement for any patient in  
960 the facility, the State Department of Health shall revoke the  
961 license of the nursing facility at the time that the department  
962 determines, after a hearing complying with due process, that the  
963 facility has violated the terms of the written agreement.

964 (b) For the purposes of this subsection, participation  
965 in the Medicaid program by a nursing facility includes Medicaid  
966 reimbursement of coinsurance and deductibles for recipients who  
967 are qualified Medicare beneficiaries and/or those who are dually  
968 eligible. Any nursing facility exercising the authority under  
969 this subsection may not bill or submit a claim to the Division of  
970 Medicaid for services to qualified Medicare beneficiaries and/or  
971 those who are dually eligible.

972 (c) The new construction of a nursing facility or  
973 nursing facility beds or the conversion of other beds to nursing  
974 facility beds described in this section must be either a part of a  
975 completely new continuing care retirement community, as described  
976 in the latest edition of the Mississippi State Health Plan, or an  
977 addition to existing personal care and independent living  
978 components, and so that the completed project will be a continuing  
979 care retirement community, containing (i) independent living  
980 accommodations, (ii) personal care beds, and (iii) the nursing  
981 home facility beds. The three (3) components must be located on a  
982 single site and be operated as one (1) inseparable facility. The  
983 nursing facility component must contain a minimum of thirty (30)  
984 beds. Any nursing facility beds authorized by this section will  
985 not be counted against the bed need set forth in the State Health  
986 Plan, as identified in Section 41-7-171, et seq.

987 This subsection (13) shall stand repealed from and after July  
988 1, 2001.

989           (14) The State Department of Health shall issue a  
990 certificate of need to any hospital which is currently licensed  
991 for two hundred fifty (250) or more acute care beds and is located  
992 in any general hospital service area not having a comprehensive  
993 cancer center, for the establishment and equipping of such a  
994 center which provides facilities and services for outpatient  
995 radiation oncology therapy, outpatient medical oncology therapy,  
996 and appropriate support services including the provision of  
997 radiation therapy services. The provision of Section 41-7-193(1)  
998 regarding substantial compliance with the projection of need as  
999 reported in the current State Health Plan is waived for the  
1000 purpose of this subsection.

1001           (15) Nothing in this section or in any other provision of  
1002 Section 41-7-171 et seq. shall prevent any nursing facility from  
1003 designating an appropriate number of existing beds in the facility  
1004 as beds for providing care exclusively to patients with  
1005 Alzheimer's disease.

1006           SECTION 2. This act shall take effect and be in force from  
1007 and after July 1, 2000.