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To: Public Health and Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2367

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF
3 NEED TO A CERTAIN HOSPITAL; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 41-7-191, Mississippi Code of 1972, is
6 amended as follows:[RDD1]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

257 (k) The department may issue a certificate of need for
258 the construction of a nursing facility at a continuing care
259 retirement community in Lowndes County, provided that the
260 recipient of the certificate of need agrees in writing that the
261 nursing facility will not at any time participate in the Medicaid

262 program (Section 43-13-101 et seq.) or admit or keep any patients
263 in the nursing facility who are participating in the Medicaid
264 program. This written agreement by the recipient of the
265 certificate of need shall be fully binding on any subsequent owner
266 of the nursing facility, if the ownership of the facility is
267 transferred at any time after the issuance of the certificate of
268 need. Agreement that the nursing facility will not participate in
269 the Medicaid program shall be a condition of the issuance of a
270 certificate of need to any person under this paragraph (k), and if
271 such nursing facility at any time after the issuance of the
272 certificate of need, regardless of the ownership of the facility,
273 participates in the Medicaid program or admits or keeps any
274 patients in the facility who are participating in the Medicaid
275 program, the State Department of Health shall revoke the
276 certificate of need, if it is still outstanding, and shall deny or
277 revoke the license of the nursing facility, at the time that the
278 department determines, after a hearing complying with due process,
279 that the facility has failed to comply with any of the conditions
280 upon which the certificate of need was issued, as provided in this
281 paragraph and in the written agreement by the recipient of the
282 certificate of need. The total number of beds that may be
283 authorized under the authority of this paragraph (k) shall not
284 exceed sixty (60) beds.

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

295 (m) The State Department of Health may issue a
296 certificate of need to a county-owned hospital in the Second
297 Judicial District of Panola County for the conversion of not more
298 than seventy-two (72) hospital beds to nursing facility beds,
299 provided that the recipient of the certificate of need agrees in
300 writing that none of the beds at the nursing facility will be
301 certified for participation in the Medicaid program (Section
302 43-13-101 et seq.), and that no claim will be submitted for
303 Medicaid reimbursement in the nursing facility in any day or for
304 any patient in the nursing facility. This written agreement by
305 the recipient of the certificate of need shall be a condition of
306 the issuance of the certificate of need under this paragraph, and
307 the agreement shall be fully binding on any subsequent owner of
308 the nursing facility if the ownership of the nursing facility is
309 transferred at any time after the issuance of the certificate of
310 need. After this written agreement is executed, the Division of
311 Medicaid and the State Department of Health shall not certify any
312 of the beds in the nursing facility for participation in the
313 Medicaid program. If the nursing facility violates the terms of
314 the written agreement by admitting or keeping in the nursing
315 facility on a regular or continuing basis any patients who are
316 participating in the Medicaid program, the State Department of
317 Health shall revoke the license of the nursing facility, at the
318 time that the department determines, after a hearing complying
319 with due process, that the nursing facility has violated the
320 condition upon which the certificate of need was issued, as
321 provided in this paragraph and in the written agreement. If the
322 certificate of need authorized under this paragraph is not issued
323 within twelve (12) months after July 1, 2001, the department shall
324 deny the application for the certificate of need and shall not
325 issue the certificate of need at any time after the twelve-month
326 period, unless the issuance is contested. If the certificate of
327 need is issued and substantial construction of the nursing

328 facility beds has not commenced within eighteen (18) months after
329 July 1, 2001, the State Department of Health, after a hearing
330 complying with due process, shall revoke the certificate of need
331 if it is still outstanding, and the department shall not issue a
332 license for the nursing facility at any time after the
333 eighteen-month period. Provided, however, that if the issuance of
334 the certificate of need is contested, the department shall require
335 substantial construction of the nursing facility beds within six
336 (6) months after final adjudication on the issuance of the
337 certificate of need.

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

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

382 (o) The department may issue a certificate of need for
383 the new construction, addition or conversion of skilled nursing
384 facility beds in Leake County, provided that the recipient of the
385 certificate of need agrees in writing that the skilled nursing
386 facility will not at any time participate in the Medicaid program
387 (Section 43-13-101 et seq.) or admit or keep any patients in the
388 skilled nursing facility who are participating in the Medicaid
389 program. This written agreement by the recipient of the
390 certificate of need shall be fully binding on any subsequent owner
391 of the skilled nursing facility, if the ownership of the facility
392 is transferred at any time after the issuance of the certificate
393 of need. Agreement that the skilled nursing facility will not

394 participate in the Medicaid program shall be a condition of the
395 issuance of a certificate of need to any person under this
396 paragraph (o), and if such skilled nursing facility at any time
397 after the issuance of the certificate of need, regardless of the
398 ownership of the facility, participates in the Medicaid program or
399 admits or keeps any patients in the facility who are participating
400 in the Medicaid program, the State Department of Health shall
401 revoke the certificate of need, if it is still outstanding, and
402 shall deny or revoke the license of the skilled nursing facility,
403 at the time that the department determines, after a hearing
404 complying with due process, that the facility has failed to comply
405 with any of the conditions upon which the certificate of need was
406 issued, as provided in this paragraph and in the written agreement
407 by the recipient of the certificate of need. The total number of
408 nursing facility beds that may be authorized by any certificate of
409 need issued under this paragraph (o) shall not exceed sixty (60)
410 beds. If the certificate of need authorized under this paragraph
411 is not issued within twelve (12) months after July 1, 2001, the
412 department shall deny the application for the certificate of need
413 and shall not issue the certificate of need at any time after the
414 twelve-month period, unless the issuance is contested. If the
415 certificate of need is issued and substantial construction of the
416 nursing facility beds has not commenced within eighteen (18)
417 months after the effective date of July 1, 2001, the State
418 Department of Health, after a hearing complying with due process,
419 shall revoke the certificate of need if it is still outstanding,
420 and the department shall not issue a license for the nursing
421 facility at any time after the eighteen-month period. Provided,
422 however, that if the issuance of the certificate of need is
423 contested, the department shall require substantial construction
424 of the nursing facility beds within six (6) months after final
425 adjudication on the issuance of the certificate of need.

426 (p) The department may issue a certificate of need for

427 the construction of a municipally-owned nursing facility within
428 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
429 beds, provided that the recipient of the certificate of need
430 agrees in writing that the skilled nursing facility will not at
431 any time participate in the Medicaid program (Section 43-13-101 et
432 seq.) or admit or keep any patients in the skilled nursing
433 facility who are participating in the Medicaid program. This
434 written agreement by the recipient of the certificate of need
435 shall be fully binding on any subsequent owner of the skilled
436 nursing facility, if the ownership of the facility is transferred
437 at any time after the issuance of the certificate of need.
438 Agreement that the skilled nursing facility will not participate
439 in the Medicaid program shall be a condition of the issuance of a
440 certificate of need to any person under this paragraph (p), and if
441 such skilled nursing facility at any time after the issuance of
442 the certificate of need, regardless of the ownership of the
443 facility, participates in the Medicaid program or admits or keeps
444 any patients in the facility who are participating in the Medicaid
445 program, the State Department of Health shall revoke the
446 certificate of need, if it is still outstanding, and shall deny or
447 revoke the license of the skilled nursing facility, at the time
448 that the department determines, after a hearing complying with due
449 process, that the facility has failed to comply with any of the
450 conditions upon which the certificate of need was issued, as
451 provided in this paragraph and in the written agreement by the
452 recipient of the certificate of need. The provision of Section
453 43-7-193(1) regarding substantial compliance of the projection of
454 need as reported in the current State Health Plan is waived for
455 the purposes of this paragraph. If the certificate of need
456 authorized under this paragraph is not issued within twelve (12)
457 months after July 1, 1998, the department shall deny the
458 application for the certificate of need and shall not issue the
459 certificate of need at any time after the twelve-month period,

460 unless the issuance is contested. If the certificate of need is
461 issued and substantial construction of the nursing facility beds
462 has not commenced within eighteen (18) months after July 1, 1998,
463 the State Department of Health, after a hearing complying with due
464 process, shall revoke the certificate of need if it is still
465 outstanding, and the department shall not issue a license for the
466 nursing facility at any time after the eighteen-month period.
467 Provided, however, that if the issuance of the certificate of need
468 is contested, the department shall require substantial
469 construction of the nursing facility beds within six (6) months
470 after final adjudication on the issuance of the certificate of
471 need.

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

482 (ii) Subject to the provisions of subparagraph
483 (v), during each of the next four (4) fiscal years, the department
484 shall issue six (6) certificates of need for new nursing facility
485 beds, as follows: During fiscal years 2000, 2001 and 2002, one
486 (1) certificate of need shall be issued for new nursing facility
487 beds in the county in each of the four (4) Long-Term Care Planning
488 Districts designated in the fiscal year 1999 State Health Plan
489 that has the highest need in the district for those beds; and two
490 (2) certificates of need shall be issued for new nursing facility
491 beds in the two (2) counties from the state at large that have the
492 highest need in the state for those beds, when considering the

493 need on a statewide basis and without regard to the Long-Term Care
494 Planning Districts in which the counties are located. During
495 fiscal year 2003, one (1) certificate of need shall be issued for
496 new nursing facility beds in any county having a need for fifty
497 (50) or more additional nursing facility beds, as shown in the
498 fiscal year 1999 State Health Plan, that has not received a
499 certificate of need under this paragraph (q) during the three (3)
500 previous fiscal years. During fiscal year 2000, in addition to
501 the six (6) certificates of need authorized in this subparagraph,
502 the department also shall issue a certificate of need for new
503 nursing facility beds in Amite County and a certificate of need
504 for new nursing facility beds in Carroll County.

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

519 (iv) Subject to the provisions of subparagraph
520 (v), the certificate of need issued under subparagraph (ii) for
521 nursing facility beds in the two (2) counties from the state at
522 large during each fiscal year shall first be available for nursing
523 facility beds in the two (2) counties that have the highest need
524 in the state for those beds, as shown in the fiscal year 1999
525 State Health Plan, when considering the need on a statewide basis

526 and without regard to the Long-Term Care Planning Districts in
527 which the counties are located. If there are no applications for
528 a certificate of need for nursing facility beds in either of the
529 two (2) counties having the highest need for those beds on a
530 statewide basis by the date specified by the department, then the
531 certificate of need shall be available for nursing facility beds
532 in other counties from the state at large in descending order of
533 the need for those beds on a statewide basis, from the county with
534 the second highest need to the county with the lowest need, until
535 an application is received for nursing facility beds in an
536 eligible county from the state at large.

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

554 (r) (i) Beginning on July 1, 1999, the State
555 Department of Health shall issue certificates of need during each
556 of the next two (2) fiscal years for the construction or expansion
557 of nursing facility beds or the conversion of other beds to
558 nursing facility beds in each of the four (4) Long-Term Care

559 Planning Districts designated in the fiscal year 1999 State Health
560 Plan, to provide care exclusively to patients with Alzheimer's
561 disease.

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

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

585 (3) The State Department of Health may grant approval for
586 and issue certificates of need to any person proposing the new
587 construction of, addition to, conversion of beds of or expansion
588 of any health care facility defined in subparagraph (x)
589 (psychiatric residential treatment facility) of Section
590 41-7-173(h). The total number of beds which may be authorized by
591 such certificates of need shall not exceed two hundred

592 seventy-four (274) beds for the entire state.

593 (a) Of the total number of beds authorized under this
594 subsection, the department shall issue a certificate of need to a
595 privately owned psychiatric residential treatment facility in
596 Simpson County for the conversion of sixteen (16) intermediate
597 care facility for the mentally retarded (ICF-MR) beds to
598 psychiatric residential treatment facility beds, provided that
599 facility agrees in writing that the facility shall give priority
600 for the use of those sixteen (16) beds to Mississippi residents
601 who are presently being treated in out-of-state facilities.

602 (b) Of the total number of beds authorized under this
603 subsection, the department may issue a certificate or certificates
604 of need for the construction or expansion of psychiatric
605 residential treatment facility beds or the conversion of other
606 beds to psychiatric residential treatment facility beds in Warren
607 County, not to exceed sixty (60) psychiatric residential treatment
608 facility beds, provided that the facility agrees in writing that
609 no more than thirty (30) of the beds at the psychiatric
610 residential treatment facility will be certified for participation
611 in the Medicaid program (Section 43-13-101 et seq.) for the use of
612 any patients other than those who are participating only in the
613 Medicaid program of another state, and that no claim will be
614 submitted to the Division of Medicaid for Medicaid reimbursement
615 for more than thirty (30) patients in the psychiatric residential
616 treatment facility in any day or for any patient in the
617 psychiatric residential treatment facility who is in a bed that is
618 not Medicaid-certified. This written agreement by the recipient
619 of the certificate of need shall be a condition of the issuance of
620 the certificate of need under this paragraph, and the agreement
621 shall be fully binding on any subsequent owner of the psychiatric
622 residential treatment facility if the ownership of the facility is
623 transferred at any time after the issuance of the certificate of
624 need. After this written agreement is executed, the Division of

625 Medicaid and the State Department of Health shall not certify more
626 than thirty (30) of the beds in the psychiatric residential
627 treatment facility for participation in the Medicaid program for
628 the use of any patients other than those who are participating
629 only in the Medicaid program of another state. If the psychiatric
630 residential treatment facility violates the terms of the written
631 agreement by admitting or keeping in the facility on a regular or
632 continuing basis more than thirty (30) patients who are
633 participating in the Mississippi Medicaid program, the State
634 Department of Health shall revoke the license of the facility, at
635 the time that the department determines, after a hearing complying
636 with due process, that the facility has violated the condition
637 upon which the certificate of need was issued, as provided in this
638 paragraph and in the written agreement.

639 (c) Of the total number of beds authorized under this
640 subsection, the department shall issue a certificate of need to a
641 hospital currently operating Medicaid-certified acute psychiatric
642 beds for adolescents in DeSoto County, for the establishment of a
643 forty-bed psychiatric residential treatment facility in DeSoto
644 County, provided that the hospital agrees in writing (i) that the
645 hospital shall give priority for the use of those forty (40) beds
646 to Mississippi residents who are presently being treated in
647 out-of-state facilities, and (ii) that no more than fifteen (15)
648 of the beds at the psychiatric residential treatment facility will
649 be certified for participation in the Medicaid program (Section
650 43-13-101 et seq.), and that no claim will be submitted for
651 Medicaid reimbursement for more than fifteen (15) patients in the
652 psychiatric residential treatment facility in any day or for any
653 patient in the psychiatric residential treatment facility who is
654 in a bed that is not Medicaid-certified. This written agreement
655 by the recipient of the certificate of need shall be a condition
656 of the issuance of the certificate of need under this paragraph,
657 and the agreement shall be fully binding on any subsequent owner

658 of the psychiatric residential treatment facility if the ownership
659 of the facility is transferred at any time after the issuance of
660 the certificate of need. After this written agreement is
661 executed, the Division of Medicaid and the State Department of
662 Health shall not certify more than fifteen (15) of the beds in the
663 psychiatric residential treatment facility for participation in
664 the Medicaid program. If the psychiatric residential treatment
665 facility violates the terms of the written agreement by admitting
666 or keeping in the facility on a regular or continuing basis more
667 than fifteen (15) patients who are participating in the Medicaid
668 program, the State Department of Health shall revoke the license
669 of the facility, at the time that the department determines, after
670 a hearing complying with due process, that the facility has
671 violated the condition upon which the certificate of need was
672 issued, as provided in this paragraph and in the written
673 agreement.

674 (d) Of the total number of beds authorized under this
675 subsection, the department may issue a certificate or certificates
676 of need for the construction or expansion of psychiatric
677 residential treatment facility beds or the conversion of other
678 beds to psychiatric treatment facility beds, not to exceed thirty
679 (30) psychiatric residential treatment facility beds, in either
680 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
681 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

682 (e) Of the total number of beds authorized under this
683 subsection (3) the department shall issue a certificate of need to
684 a privately owned, nonprofit psychiatric residential treatment
685 facility in Hinds County for an eight-bed expansion of the
686 facility, provided that the facility agrees in writing that the
687 facility shall give priority for the use of those eight (8) beds
688 to Mississippi residents who are presently being treated in
689 out-of-state facilities.

690 (4) (a) From and after July 1, 1993, the department shall

691 not issue a certificate of need to any person for the new
692 construction of any hospital, psychiatric hospital or chemical
693 dependency hospital that will contain any child/adolescent
694 psychiatric or child/adolescent chemical dependency beds, or for
695 the conversion of any other health care facility to a hospital,
696 psychiatric hospital or chemical dependency hospital that will
697 contain any child/adolescent psychiatric or child/adolescent
698 chemical dependency beds, or for the addition of any
699 child/adolescent psychiatric or child/adolescent chemical
700 dependency beds in any hospital, psychiatric hospital or chemical
701 dependency hospital, or for the conversion of any beds of another
702 category in any hospital, psychiatric hospital or chemical
703 dependency hospital to child/adolescent psychiatric or
704 child/adolescent chemical dependency beds, except as hereinafter
705 authorized:

706 (i) The department may issue certificates of need
707 to any person for any purpose described in this subsection,
708 provided that the hospital, psychiatric hospital or chemical
709 dependency hospital does not participate in the Medicaid program
710 (Section 43-13-101 et seq.) at the time of the application for the
711 certificate of need and the owner of the hospital, psychiatric
712 hospital or chemical dependency hospital agrees in writing that
713 the hospital, psychiatric hospital or chemical dependency hospital
714 will not at any time participate in the Medicaid program or admit
715 or keep any patients who are participating in the Medicaid program
716 in the hospital, psychiatric hospital or chemical dependency
717 hospital. This written agreement by the recipient of the
718 certificate of need shall be fully binding on any subsequent owner
719 of the hospital, psychiatric hospital or chemical dependency
720 hospital, if the ownership of the facility is transferred at any
721 time after the issuance of the certificate of need. Agreement
722 that the hospital, psychiatric hospital or chemical dependency
723 hospital will not participate in the Medicaid program shall be a

724 condition of the issuance of a certificate of need to any person
725 under this subparagraph (a)(i), and if such hospital, psychiatric
726 hospital or chemical dependency hospital at any time after the
727 issuance of the certificate of need, regardless of the ownership
728 of the facility, participates in the Medicaid program or admits or
729 keeps any patients in the hospital, psychiatric hospital or
730 chemical dependency hospital who are participating in the Medicaid
731 program, the State Department of Health shall revoke the
732 certificate of need, if it is still outstanding, and shall deny or
733 revoke the license of the hospital, psychiatric hospital or
734 chemical dependency hospital, at the time that the department
735 determines, after a hearing complying with due process, that the
736 hospital, psychiatric hospital or chemical dependency hospital has
737 failed to comply with any of the conditions upon which the
738 certificate of need was issued, as provided in this subparagraph
739 and in the written agreement by the recipient of the certificate
740 of need.

741 (ii) The department may issue a certificate of
742 need for the conversion of existing beds in a county hospital in
743 Choctaw County from acute care beds to child/adolescent chemical
744 dependency beds. For purposes of this subparagraph, the
745 provisions of Section 41-7-193(1) requiring substantial compliance
746 with the projection of need as reported in the current State
747 Health Plan is waived. The total number of beds that may be
748 authorized under authority of this subparagraph shall not exceed
749 twenty (20) beds. There shall be no prohibition or restrictions
750 on participation in the Medicaid program (Section 43-13-101 et
751 seq.) for the hospital receiving the certificate of need
752 authorized under this subparagraph (a)(ii) or for the beds
753 converted pursuant to the authority of that certificate of need.

754 (iii) The department may issue a certificate or
755 certificates of need for the construction or expansion of
756 child/adolescent psychiatric beds or the conversion of other beds

757 to child/adolescent psychiatric beds in Warren County. For
758 purposes of this subparagraph, the provisions of Section
759 41-7-193(1) requiring substantial compliance with the projection
760 of need as reported in the current State Health Plan are waived.
761 The total number of beds that may be authorized under the
762 authority of this subparagraph shall not exceed twenty (20) beds.

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

768 (iv) The department shall issue a certificate of
769 need to the Region 7 Mental Health/Retardation Commission for the
770 construction or expansion of child/adolescent psychiatric beds or
771 the conversion of other beds to child/adolescent psychiatric beds
772 in any of the counties served by the commission. For purposes of
773 this subparagraph, the provisions of Section 41-7-193(1) requiring
774 substantial compliance with the projection of need as reported in
775 the current State Health Plan is waived. The total number of beds
776 that may be authorized under the authority of this subparagraph
777 shall not exceed twenty (20) beds. There shall be no prohibition
778 or restrictions on participation in the Medicaid program (Section
779 43-13-101 et seq.) for the person receiving the certificate of
780 need authorized under this subparagraph (a)(iv) or for the beds
781 converted pursuant to the authority of that certificate of need.

782 (v) The department may issue a certificate of need
783 to any county hospital located in Leflore County for the
784 construction or expansion of adult psychiatric beds or the
785 conversion of other beds to adult psychiatric beds, not to exceed
786 twenty (20) beds, provided that the recipient of the certificate
787 of need agrees in writing that the adult psychiatric beds will not
788 at any time be certified for participation in the Medicaid program
789 and that the hospital will not admit or keep any patients who are

790 participating in the Medicaid program in any of such adult
791 psychiatric beds. This written agreement by the recipient of the
792 certificate of need shall be fully binding on any subsequent owner
793 of the hospital if the ownership of the hospital is transferred at
794 any time after the issuance of the certificate of need. Agreement
795 that the adult psychiatric beds will not be certified for
796 participation in the Medicaid program shall be a condition of the
797 issuance of a certificate of need to any person under this
798 subparagraph (a)(v), and if such hospital at any time after the
799 issuance of the certificate of need, regardless of the ownership
800 of the hospital, has any of such adult psychiatric beds certified
801 for participation in the Medicaid program or admits or keeps any
802 Medicaid patients in such adult psychiatric beds, the State
803 Department of Health shall revoke the certificate of need, if it
804 is still outstanding, and shall deny or revoke the license of the
805 hospital at the time that the department determines, after a
806 hearing complying with due process, that the hospital has failed
807 to comply with any of the conditions upon which the certificate of
808 need was issued, as provided in this subparagraph and in the
809 written agreement by the recipient of the certificate of need.

810 (vi) The department may issue a certificate or
811 certificates of need for the expansion of child psychiatric beds
812 or the conversion of other beds to child psychiatric beds at the
813 University of Mississippi Medical Center. For purposes of this
814 subparagraph (a)(vi), the provision of Section 41-7-193(1)
815 requiring substantial compliance with the projection of need as
816 reported in the current State Health Plan is waived. The total
817 number of beds that may be authorized under the authority of this
818 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
819 shall be no prohibition or restrictions on participation in the
820 Medicaid program (Section 43-13-101 et seq.) for the hospital
821 receiving the certificate of need authorized under this
822 subparagraph (a)(vi) or for the beds converted pursuant to the

823 authority of that certificate of need.

824 (b) From and after July 1, 1990, no hospital,
825 psychiatric hospital or chemical dependency hospital shall be
826 authorized to add any child/adolescent psychiatric or
827 child/adolescent chemical dependency beds or convert any beds of
828 another category to child/adolescent psychiatric or
829 child/adolescent chemical dependency beds without a certificate of
830 need under the authority of subsection (1)(c) of this section.

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

834 (6) The State Department of Health shall issue a certificate
835 of need to a Mississippi corporation qualified to manage a
836 long-term care hospital as defined in Section 41-7-173(h)(xii) in
837 Harrison County, not to exceed eighty (80) beds, including any
838 necessary renovation or construction required for licensure and
839 certification, provided that the recipient of the certificate of
840 need agrees in writing that the long-term care hospital will not
841 at any time participate in the Medicaid program (Section 43-13-101
842 et seq.) or admit or keep any patients in the long-term care
843 hospital who are participating in the Medicaid program. This
844 written agreement by the recipient of the certificate of need
845 shall be fully binding on any subsequent owner of the long-term
846 care hospital, if the ownership of the facility is transferred at
847 any time after the issuance of the certificate of need. Agreement
848 that the long-term care hospital will not participate in the
849 Medicaid program shall be a condition of the issuance of a
850 certificate of need to any person under this subsection (6), and
851 if such long-term care hospital at any time after the issuance of
852 the certificate of need, regardless of the ownership of the
853 facility, participates in the Medicaid program or admits or keeps
854 any patients in the facility who are participating in the Medicaid
855 program, the State Department of Health shall revoke the

856 certificate of need, if it is still outstanding, and shall deny or
857 revoke the license of the long-term care hospital, at the time
858 that the department determines, after a hearing complying with due
859 process, that the facility has failed to comply with any of the
860 conditions upon which the certificate of need was issued, as
861 provided in this subsection and in the written agreement by the
862 recipient of the certificate of need. For purposes of this
863 subsection, the provision of Section 41-7-193(1) requiring
864 substantial compliance with the projection of need as reported in
865 the current State Health Plan is hereby waived.

866 (7) The State Department of Health may issue a certificate
867 of need to any hospital in the state to utilize a portion of its
868 beds for the "swing-bed" concept. Any such hospital must be in
869 conformance with the federal regulations regarding such swing-bed
870 concept at the time it submits its application for a certificate
871 of need to the State Department of Health, except that such
872 hospital may have more licensed beds or a higher average daily
873 census (ADC) than the maximum number specified in federal
874 regulations for participation in the swing-bed program. Any
875 hospital meeting all federal requirements for participation in the
876 swing-bed program which receives such certificate of need shall
877 render services provided under the swing-bed concept to any
878 patient eligible for Medicare (Title XVIII of the Social Security
879 Act) who is certified by a physician to be in need of such
880 services, and no such hospital shall permit any patient who is
881 eligible for both Medicaid and Medicare or eligible only for
882 Medicaid to stay in the swing beds of the hospital for more than
883 thirty (30) days per admission unless the hospital receives prior
884 approval for such patient from the Division of Medicaid, Office of
885 the Governor. Any hospital having more licensed beds or a higher
886 average daily census (ADC) than the maximum number specified in
887 federal regulations for participation in the swing-bed program
888 which receives such certificate of need shall develop a procedure

889 to insure that before a patient is allowed to stay in the swing
890 beds of the hospital, there are no vacant nursing home beds
891 available for that patient located within a fifty-mile radius of
892 the hospital. When any such hospital has a patient staying in the
893 swing beds of the hospital and the hospital receives notice from a
894 nursing home located within such radius that there is a vacant bed
895 available for that patient, the hospital shall transfer the
896 patient to the nursing home within a reasonable time after receipt
897 of the notice. Any hospital which is subject to the requirements
898 of the two (2) preceding sentences of this subsection may be
899 suspended from participation in the swing-bed program for a
900 reasonable period of time by the State Department of Health if the
901 department, after a hearing complying with due process, determines
902 that the hospital has failed to comply with any of those
903 requirements.

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

908 (9) The Department of Health shall not grant approval for or
909 issue a certificate of need to any person proposing the
910 establishment of, or expansion of the currently approved territory
911 of, or the contracting to establish a home office, subunit or
912 branch office within the space operated as a health care facility
913 as defined in Section 41-7-173(h)(i) through (viii) by a health
914 care facility as defined in subparagraph (ix) of Section
915 41-7-173(h).

916 (10) Health care facilities owned and/or operated by the
917 state or its agencies are exempt from the restraints in this
918 section against issuance of a certificate of need if such addition
919 or expansion consists of repairing or renovation necessary to
920 comply with the state licensure law. This exception shall not
921 apply to the new construction of any building by such state

922 facility. This exception shall not apply to any health care
923 facilities owned and/or operated by counties, municipalities,
924 districts, unincorporated areas, other defined persons, or any
925 combination thereof.

926 (11) The new construction, renovation or expansion of or
927 addition to any health care facility defined in subparagraph (ii)
928 (psychiatric hospital), subparagraph (iv) (skilled nursing
929 facility), subparagraph (vi) (intermediate care facility),
930 subparagraph (viii) (intermediate care facility for the mentally
931 retarded) and subparagraph (x) (psychiatric residential treatment
932 facility) of Section 41-7-173(h) which is owned by the State of
933 Mississippi and under the direction and control of the State
934 Department of Mental Health, and the addition of new beds or the
935 conversion of beds from one category to another in any such
936 defined health care facility which is owned by the State of
937 Mississippi and under the direction and control of the State
938 Department of Mental Health, shall not require the issuance of a
939 certificate of need under Section 41-7-171 et seq.,
940 notwithstanding any provision in Section 41-7-171 et seq. to the
941 contrary.

942 (12) The new construction, renovation or expansion of or
943 addition to any veterans homes or domiciliaries for eligible
944 veterans of the State of Mississippi as authorized under Section
945 35-1-19 shall not require the issuance of a certificate of need,
946 notwithstanding any provision in Section 41-7-171 et seq. to the
947 contrary.

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

953 (a) Before any construction or conversion may be
954 undertaken without a certificate of need, the owner of the nursing

955 facility, in the case of an existing facility, or the applicant to
956 construct a nursing facility, in the case of new construction,
957 first must file a written notice of intent and sign a written
958 agreement with the State Department of Health that the entire
959 nursing facility will not at any time participate in or have any
960 beds certified for participation in the Medicaid program (Section
961 43-13-101 et seq.), will not admit or keep any patients in the
962 nursing facility who are participating in the Medicaid program,
963 and will not submit any claim for Medicaid reimbursement for any
964 patient in the facility. This written agreement by the owner or
965 applicant shall be a condition of exercising the authority under
966 this subsection without a certificate of need, and the agreement
967 shall be fully binding on any subsequent owner of the nursing
968 facility if the ownership of the facility is transferred at any
969 time after the agreement is signed. After the written agreement
970 is signed, the Division of Medicaid and the State Department of
971 Health shall not certify any beds in the nursing facility for
972 participation in the Medicaid program. If the nursing facility
973 violates the terms of the written agreement by participating in
974 the Medicaid program, having any beds certified for participation
975 in the Medicaid program, admitting or keeping any patient in the
976 facility who is participating in the Medicaid program, or
977 submitting any claim for Medicaid reimbursement for any patient in
978 the facility, the State Department of Health shall revoke the
979 license of the nursing facility at the time that the department
980 determines, after a hearing complying with due process, that the
981 facility has violated the terms of the written agreement.

982 (b) For the purposes of this subsection, participation
983 in the Medicaid program by a nursing facility includes Medicaid
984 reimbursement of coinsurance and deductibles for recipients who
985 are qualified Medicare beneficiaries and/or those who are dually
986 eligible. Any nursing facility exercising the authority under
987 this subsection may not bill or submit a claim to the Division of

988 Medicaid for services to qualified Medicare beneficiaries and/or
989 those who are dually eligible.

990 (c) The new construction of a nursing facility or
991 nursing facility beds or the conversion of other beds to nursing
992 facility beds described in this section must be either a part of a
993 completely new continuing care retirement community, as described
994 in the latest edition of the Mississippi State Health Plan, or an
995 addition to existing personal care and independent living
996 components, and so that the completed project will be a continuing
997 care retirement community, containing (i) independent living
998 accommodations, (ii) personal care beds, and (iii) the nursing
999 home facility beds. The three (3) components must be located on a
1000 single site and be operated as one (1) inseparable facility. The
1001 nursing facility component must contain a minimum of thirty (30)
1002 beds. Any nursing facility beds authorized by this section will
1003 not be counted against the bed need set forth in the State Health
1004 Plan, as identified in Section 41-7-171, et seq.

1005 This subsection (13) shall stand repealed from and after July
1006 1, 2001.

1007 (14) The State Department of Health shall issue a
1008 certificate of need to any hospital which is currently licensed
1009 for two hundred fifty (250) or more acute care beds and is located
1010 in any general hospital service area not having a comprehensive
1011 cancer center, for the establishment and equipping of such a
1012 center which provides facilities and services for outpatient
1013 radiation oncology therapy, outpatient medical oncology therapy,
1014 and appropriate support services including the provision of
1015 radiation therapy services. The provision of Section 41-7-193(1)
1016 regarding substantial compliance with the projection of need as
1017 reported in the current State Health Plan is waived for the
1018 purpose of this subsection.

1019 (15) Nothing in this section or in any other provision of
1020 Section 41-7-171 et seq. shall prevent any nursing facility from

1021 designating an appropriate number of existing beds in the facility
1022 as beds for providing care exclusively to patients with
1023 Alzheimer's disease.

1024 (16) In order to enhance access to obstetrical and acute
1025 care services for Medicaid and medically indigent patients in
1026 Mississippi's urban areas, to promote and provide for the health
1027 and welfare of the general public, and notwithstanding any
1028 provisions in Section 41-7-171 et seq., to the contrary, the State
1029 Department of Health shall issue a certificate of need for the
1030 reopening and continued operation of any health care facility
1031 located in any county having a population in excess of one hundred
1032 thousand (100,000), and which was licensed and operated as an
1033 acute care hospital, or as part of an acute care hospital, prior
1034 to January 1, 2000, but which closed and ceased operations, for
1035 any reason, as an acute care hospital, or as part of an acute care
1036 hospital, at any time after January 1, 1999, and prior to January
1037 1, 2000.

1038 The provisions of Section 41-7-193(1) regarding substantial
1039 compliance with the projection of need as reported in the State
1040 Health Plan are waived for the purpose of this subsection.
1041 Additionally, the provisions of Section 41-7-201(2)(a) shall not
1042 apply to the final order or certificate of need issued under the
1043 authority of this subsection. Notwithstanding any other statute
1044 or regulation, there shall be no prohibition on the licensure,
1045 certification or operation of the health care facility approved by
1046 the final order granting the certificate of need issued under this
1047 subsection, during the pendency of any appeals of such final
1048 order.

1049 In issuing a certificate of need pursuant to this subsection,
1050 the State Department of Health shall be authorized to insure
1051 accessibility to the health care facility by Medicaid and
1052 medically indigent patients by subjecting the certificate of need
1053 to the following conditions: (a) that the indigent/charity care

1054 and Medicaid utilization rates for all services to be offered by
1055 the health care facility shall at a minimum be five percent (5%)
1056 indigent/charity care and fifteen percent (15%) Medicaid by the
1057 end of the second year of operation after the reopening of the
1058 facility; (b) that the indigent/charity care and Medicaid
1059 utilization rates for obstetrical services, based on number of
1060 deliveries, at the health care facility shall at a minimum be five
1061 percent (5%) and twenty-five percent (25%), respectively, by the
1062 end of the second year of operation after the reopening of the
1063 facility; (c) that written confirmation of the indigent/charity
1064 care and Medicaid utilization rate is provided by the health care
1065 facility to the State Department of Health within sixty (60) days
1066 of the end of the second year of operation following reopening,
1067 and annually thereafter; and (d) that the facility's failure to
1068 substantially comply with the above-stated conditions shall afford
1069 the State Department of Health the right, after due process, to
1070 revoke the certificate of need for the facility and/or to revoke
1071 the license issued to the facility as provided in Section
1072 41-7-209, Mississippi Code of 1972.

1073 SECTION 2. This act shall take effect and be in force from
1074 and after its passage.