

By: Tollison

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2642

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT COUNTY-OWNED HOSPITALS SHALL HAVE PRIORITY IN
3 APPLYING FOR CERTIFICATES OF NEED FOR NURSING FACILITY BEDS; AND
4 FOR RELATED SERVICES.

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:[RDD1]

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

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

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

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

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

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

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

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

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

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

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

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

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

473 (q) (i) Beginning on July 1, 1999, the State

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

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

502 the six (6) certificates of need authorized in this subparagraph,
503 the department also shall issue a certificate of need for new
504 nursing facility beds in Amite County and a certificate of need
505 for new nursing facility beds in Carroll County.

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

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

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

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

555 (vi) If more than one (1) application is made for
556 a certificate of need for nursing home facility beds available
557 under this paragraph (q), and one of the applicants is a

558 county-owned hospital located in the county where nursing home
559 facility beds become available, the department shall give priority
560 to the county-owned hospital located in the county where nursing
561 home facility beds become available in granting the certificate of
562 need.

563 (r) (i) Beginning on July 1, 1999, the State
564 Department of Health shall issue certificates of need during each
565 of the next two (2) fiscal years for the construction or expansion
566 of nursing facility beds or the conversion of other beds to
567 nursing facility beds in each of the four (4) Long-Term Care
568 Planning Districts designated in the fiscal year 1999 State Health
569 Plan, to provide care exclusively to patients with Alzheimer's
570 disease.

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

586 shall be issued for beds in the southern part of the district.

587 (iii) The State Department of Health, in
588 consultation with the Department of Mental Health and the Division
589 of Medicaid, shall develop and prescribe the staffing levels,
590 space requirements and other standards and requirements that must
591 be met with regard to the nursing facility beds authorized under
592 this paragraph (r) to provide care exclusively to patients with
593 Alzheimer's disease.

594 (3) The State Department of Health may grant approval for
595 and issue certificates of need to any person proposing the new
596 construction of, addition to, conversion of beds of or expansion
597 of any health care facility defined in subparagraph (x)
598 (psychiatric residential treatment facility) of Section
599 41-7-173(h). The total number of beds which may be authorized by
600 such certificates of need shall not exceed two hundred
601 seventy-four (274) beds for the entire state.

602 (a) Of the total number of beds authorized under this
603 subsection, the department shall issue a certificate of need to a
604 privately owned psychiatric residential treatment facility in
605 Simpson County for the conversion of sixteen (16) intermediate
606 care facility for the mentally retarded (ICF-MR) beds to
607 psychiatric residential treatment facility beds, provided that
608 facility agrees in writing that the facility shall give priority
609 for the use of those sixteen (16) beds to Mississippi residents
610 who are presently being treated in out-of-state facilities.

611 (b) Of the total number of beds authorized under this
612 subsection, the department may issue a certificate or certificates
613 of need for the construction or expansion of psychiatric

614 residential treatment facility beds or the conversion of other
615 beds to psychiatric residential treatment facility beds in Warren
616 County, not to exceed sixty (60) psychiatric residential treatment
617 facility beds, provided that the facility agrees in writing that
618 no more than thirty (30) of the beds at the psychiatric
619 residential treatment facility will be certified for participation
620 in the Medicaid program (Section 43-13-101 et seq.) for the use of
621 any patients other than those who are participating only in the
622 Medicaid program of another state, and that no claim will be
623 submitted to the Division of Medicaid for Medicaid reimbursement
624 for more than thirty (30) patients in the psychiatric residential
625 treatment facility in any day or for any patient in the
626 psychiatric residential treatment facility who is in a bed that is
627 not Medicaid-certified. This written agreement by the recipient
628 of the certificate of need shall be a condition of the issuance of
629 the certificate of need under this paragraph, and the agreement
630 shall be fully binding on any subsequent owner of the psychiatric
631 residential treatment facility if the ownership of the facility is
632 transferred at any time after the issuance of the certificate of
633 need. After this written agreement is executed, the Division of
634 Medicaid and the State Department of Health shall not certify more
635 than thirty (30) of the beds in the psychiatric residential
636 treatment facility for participation in the Medicaid program for
637 the use of any patients other than those who are participating
638 only in the Medicaid program of another state. If the psychiatric
639 residential treatment facility violates the terms of the written
640 agreement by admitting or keeping in the facility on a regular or
641 continuing basis more than thirty (30) patients who are

642 participating in the Mississippi Medicaid program, the State
643 Department of Health shall revoke the license of the facility, at
644 the time that the department determines, after a hearing complying
645 with due process, that the facility has violated the condition
646 upon which the certificate of need was issued, as provided in this
647 paragraph and in the written agreement.

648 (c) Of the total number of beds authorized under this
649 subsection, the department shall issue a certificate of need to a
650 hospital currently operating Medicaid-certified acute psychiatric
651 beds for adolescents in DeSoto County, for the establishment of a
652 forty-bed psychiatric residential treatment facility in DeSoto
653 County, provided that the hospital agrees in writing (i) that the
654 hospital shall give priority for the use of those forty (40) beds
655 to Mississippi residents who are presently being treated in
656 out-of-state facilities, and (ii) that no more than fifteen (15)
657 of the beds at the psychiatric residential treatment facility will
658 be certified for participation in the Medicaid program (Section
659 43-13-101 et seq.), and that no claim will be submitted for
660 Medicaid reimbursement for more than fifteen (15) patients in the
661 psychiatric residential treatment facility in any day or for any
662 patient in the psychiatric residential treatment facility who is
663 in a bed that is not Medicaid-certified. This written agreement
664 by the recipient of the certificate of need shall be a condition
665 of the issuance of the certificate of need under this paragraph,
666 and the agreement shall be fully binding on any subsequent owner
667 of the psychiatric residential treatment facility if the ownership
668 of the facility is transferred at any time after the issuance of
669 the certificate of need. After this written agreement is

670 executed, the Division of Medicaid and the State Department of
671 Health shall not certify more than fifteen (15) of the beds in the
672 psychiatric residential treatment facility for participation in
673 the Medicaid program. If the psychiatric residential treatment
674 facility violates the terms of the written agreement by admitting
675 or keeping in the facility on a regular or continuing basis more
676 than fifteen (15) patients who are participating in the Medicaid
677 program, the State Department of Health shall revoke the license
678 of the facility, at the time that the department determines, after
679 a hearing complying with due process, that the facility has
680 violated the condition upon which the certificate of need was
681 issued, as provided in this paragraph and in the written
682 agreement.

683 (d) Of the total number of beds authorized under this
684 subsection, the department may issue a certificate or certificates
685 of need for the construction or expansion of psychiatric
686 residential treatment facility beds or the conversion of other
687 beds to psychiatric treatment facility beds, not to exceed thirty
688 (30) psychiatric residential treatment facility beds, in either
689 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
690 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

691 (e) Of the total number of beds authorized under this
692 subsection (3) the department shall issue a certificate of need to
693 a privately owned, nonprofit psychiatric residential treatment
694 facility in Hinds County for an eight-bed expansion of the
695 facility, provided that the facility agrees in writing that the
696 facility shall give priority for the use of those eight (8) beds
697 to Mississippi residents who are presently being treated in

698 out-of-state facilities.

699 (4) (a) From and after July 1, 1993, the department shall
700 not issue a certificate of need to any person for the new
701 construction of any hospital, psychiatric hospital or chemical
702 dependency hospital that will contain any child/adolescent
703 psychiatric or child/adolescent chemical dependency beds, or for
704 the conversion of any other health care facility to a hospital,
705 psychiatric hospital or chemical dependency hospital that will
706 contain any child/adolescent psychiatric or child/adolescent
707 chemical dependency beds, or for the addition of any
708 child/adolescent psychiatric or child/adolescent chemical
709 dependency beds in any hospital, psychiatric hospital or chemical
710 dependency hospital, or for the conversion of any beds of another
711 category in any hospital, psychiatric hospital or chemical
712 dependency hospital to child/adolescent psychiatric or
713 child/adolescent chemical dependency beds, except as hereinafter
714 authorized:

715 (i) The department may issue certificates of need
716 to any person for any purpose described in this subsection,
717 provided that the hospital, psychiatric hospital or chemical
718 dependency hospital does not participate in the Medicaid program
719 (Section 43-13-101 et seq.) at the time of the application for the
720 certificate of need and the owner of the hospital, psychiatric
721 hospital or chemical dependency hospital agrees in writing that
722 the hospital, psychiatric hospital or chemical dependency hospital
723 will not at any time participate in the Medicaid program or admit
724 or keep any patients who are participating in the Medicaid program
725 in the hospital, psychiatric hospital or chemical dependency

726 hospital. This written agreement by the recipient of the
727 certificate of need shall be fully binding on any subsequent owner
728 of the hospital, psychiatric hospital or chemical dependency
729 hospital, if the ownership of the facility is transferred at any
730 time after the issuance of the certificate of need. Agreement
731 that the hospital, psychiatric hospital or chemical dependency
732 hospital will not participate in the Medicaid program shall be a
733 condition of the issuance of a certificate of need to any person
734 under this subparagraph (a)(i), and if such hospital, psychiatric
735 hospital or chemical dependency hospital at any time after the
736 issuance of the certificate of need, regardless of the ownership
737 of the facility, participates in the Medicaid program or admits or
738 keeps any patients in the hospital, psychiatric hospital or
739 chemical dependency hospital who are participating in the Medicaid
740 program, the State Department of Health shall revoke the
741 certificate of need, if it is still outstanding, and shall deny or
742 revoke the license of the hospital, psychiatric hospital or
743 chemical dependency hospital, at the time that the department
744 determines, after a hearing complying with due process, that the
745 hospital, psychiatric hospital or chemical dependency hospital has
746 failed to comply with any of the conditions upon which the
747 certificate of need was issued, as provided in this subparagraph
748 and in the written agreement by the recipient of the certificate
749 of need.

750 (ii) The department may issue a certificate of
751 need for the conversion of existing beds in a county hospital in
752 Choctaw County from acute care beds to child/adolescent chemical
753 dependency beds. For purposes of this subparagraph, the

754 provisions of Section 41-7-193(1) requiring substantial compliance
755 with the projection of need as reported in the current State
756 Health Plan is waived. The total number of beds that may be
757 authorized under authority of this subparagraph shall not exceed
758 twenty (20) beds. There shall be no prohibition or restrictions
759 on participation in the Medicaid program (Section 43-13-101 et
760 seq.) for the hospital receiving the certificate of need
761 authorized under this subparagraph (a)(ii) or for the beds
762 converted pursuant to the authority of that certificate of need.

763 (iii) The department may issue a certificate or
764 certificates of need for the construction or expansion of
765 child/adolescent psychiatric beds or the conversion of other beds
766 to child/adolescent psychiatric beds in Warren County. For
767 purposes of this subparagraph, the provisions of Section
768 41-7-193(1) requiring substantial compliance with the projection
769 of need as reported in the current State Health Plan are waived.
770 The total number of beds that may be authorized under the
771 authority of this subparagraph shall not exceed twenty (20) beds.

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

777 (iv) The department shall issue a certificate of
778 need to the Region 7 Mental Health/Retardation Commission for the
779 construction or expansion of child/adolescent psychiatric beds or
780 the conversion of other beds to child/adolescent psychiatric beds
781 in any of the counties served by the commission. For purposes of

782 this subparagraph, the provisions of Section 41-7-193(1) requiring
783 substantial compliance with the projection of need as reported in
784 the current State Health Plan is waived. The total number of beds
785 that may be authorized under the authority of this subparagraph
786 shall not exceed twenty (20) beds. There shall be no prohibition
787 or restrictions on participation in the Medicaid program (Section
788 43-13-101 et seq.) for the person receiving the certificate of
789 need authorized under this subparagraph (a)(iv) or for the beds
790 converted pursuant to the authority of that certificate of need.

791 (v) The department may issue a certificate of need
792 to any county hospital located in Leflore County for the
793 construction or expansion of adult psychiatric beds or the
794 conversion of other beds to adult psychiatric beds, not to exceed
795 twenty (20) beds, provided that the recipient of the certificate
796 of need agrees in writing that the adult psychiatric beds will not
797 at any time be certified for participation in the Medicaid program
798 and that the hospital will not admit or keep any patients who are
799 participating in the Medicaid program in any of such adult
800 psychiatric beds. This written agreement by the recipient of the
801 certificate of need shall be fully binding on any subsequent owner
802 of the hospital if the ownership of the hospital is transferred at
803 any time after the issuance of the certificate of need. Agreement
804 that the adult psychiatric beds will not be certified for
805 participation in the Medicaid program shall be a condition of the
806 issuance of a certificate of need to any person under this
807 subparagraph (a)(v), and if such hospital at any time after the
808 issuance of the certificate of need, regardless of the ownership
809 of the hospital, has any of such adult psychiatric beds certified

810 for participation in the Medicaid program or admits or keeps any
811 Medicaid patients in such adult psychiatric beds, the State
812 Department of Health shall revoke the certificate of need, if it
813 is still outstanding, and shall deny or revoke the license of the
814 hospital at the time that the department determines, after a
815 hearing complying with due process, that the hospital has failed
816 to comply with any of the conditions upon which the certificate of
817 need was issued, as provided in this subparagraph and in the
818 written agreement by the recipient of the certificate of need.

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

833 (b) From and after July 1, 1990, no hospital,
834 psychiatric hospital or chemical dependency hospital shall be
835 authorized to add any child/adolescent psychiatric or
836 child/adolescent chemical dependency beds or convert any beds of
837 another category to child/adolescent psychiatric or

838 child/adolescent chemical dependency beds without a certificate of
839 need under the authority of subsection (1)(c) of this section.

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

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

866 revoke the license of the long-term care hospital, at the time
867 that the department determines, after a hearing complying with due
868 process, that the facility has failed to comply with any of the
869 conditions upon which the certificate of need was issued, as
870 provided in this subsection and in the written agreement by the
871 recipient of the certificate of need. For purposes of this
872 subsection, the provision of Section 41-7-193(1) requiring
873 substantial compliance with the projection of need as reported in
874 the current State Health Plan is hereby waived.

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

894 the Governor. Any hospital having more licensed beds or a higher
895 average daily census (ADC) than the maximum number specified in
896 federal regulations for participation in the swing-bed program
897 which receives such certificate of need shall develop a procedure
898 to insure that before a patient is allowed to stay in the swing
899 beds of the hospital, there are no vacant nursing home beds
900 available for that patient located within a fifty-mile radius of
901 the hospital. When any such hospital has a patient staying in the
902 swing beds of the hospital and the hospital receives notice from a
903 nursing home located within such radius that there is a vacant bed
904 available for that patient, the hospital shall transfer the
905 patient to the nursing home within a reasonable time after receipt
906 of the notice. Any hospital which is subject to the requirements
907 of the two (2) preceding sentences of this subsection may be
908 suspended from participation in the swing-bed program for a
909 reasonable period of time by the State Department of Health if the
910 department, after a hearing complying with due process, determines
911 that the hospital has failed to comply with any of those
912 requirements.

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

917 (9) The Department of Health shall not grant approval for or
918 issue a certificate of need to any person proposing the
919 establishment of, or expansion of the currently approved territory
920 of, or the contracting to establish a home office, subunit or
921 branch office within the space operated as a health care facility

922 as defined in Section 41-7-173(h)(i) through (viii) by a health
923 care facility as defined in subparagraph (ix) of Section
924 41-7-173(h).

925 (10) Health care facilities owned and/or operated by the
926 state or its agencies are exempt from the restraints in this
927 section against issuance of a certificate of need if such addition
928 or expansion consists of repairing or renovation necessary to
929 comply with the state licensure law. This exception shall not
930 apply to the new construction of any building by such state
931 facility. This exception shall not apply to any health care
932 facilities owned and/or operated by counties, municipalities,
933 districts, unincorporated areas, other defined persons, or any
934 combination thereof.

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

950 contrary.

951 (12) The new construction, renovation or expansion of or
952 addition to any veterans homes or domiciliaries for eligible
953 veterans of the State of Mississippi as authorized under Section
954 35-1-19 shall not require the issuance of a certificate of need,
955 notwithstanding any provision in Section 41-7-171 et seq. to the
956 contrary.

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

962 (a) Before any construction or conversion may be
963 undertaken without a certificate of need, the owner of the nursing
964 facility, in the case of an existing facility, or the applicant to
965 construct a nursing facility, in the case of new construction,
966 first must file a written notice of intent and sign a written
967 agreement with the State Department of Health that the entire
968 nursing facility will not at any time participate in or have any
969 beds certified for participation in the Medicaid program (Section
970 43-13-101 et seq.), will not admit or keep any patients in the
971 nursing facility who are participating in the Medicaid program,
972 and will not submit any claim for Medicaid reimbursement for any
973 patient in the facility. This written agreement by the owner or
974 applicant shall be a condition of exercising the authority under
975 this subsection without a certificate of need, and the agreement
976 shall be fully binding on any subsequent owner of the nursing
977 facility if the ownership of the facility is transferred at any

978 time after the agreement is signed. After the written agreement
979 is signed, the Division of Medicaid and the State Department of
980 Health shall not certify any beds in the nursing facility for
981 participation in the Medicaid program. If the nursing facility
982 violates the terms of the written agreement by participating in
983 the Medicaid program, having any beds certified for participation
984 in the Medicaid program, admitting or keeping any patient in the
985 facility who is participating in the Medicaid program, or
986 submitting any claim for Medicaid reimbursement for any patient in
987 the facility, the State Department of Health shall revoke the
988 license of the nursing facility at the time that the department
989 determines, after a hearing complying with due process, that the
990 facility has violated the terms of the written agreement.

991 (b) For the purposes of this subsection, participation
992 in the Medicaid program by a nursing facility includes Medicaid
993 reimbursement of coinsurance and deductibles for recipients who
994 are qualified Medicare beneficiaries and/or those who are dually
995 eligible. Any nursing facility exercising the authority under
996 this subsection may not bill or submit a claim to the Division of
997 Medicaid for services to qualified Medicare beneficiaries and/or
998 those who are dually eligible.

999 (c) The new construction of a nursing facility or
1000 nursing facility beds or the conversion of other beds to nursing
1001 facility beds described in this section must be either a part of a
1002 completely new continuing care retirement community, as described
1003 in the latest edition of the Mississippi State Health Plan, or an
1004 addition to existing personal care and independent living
1005 components, and so that the completed project will be a continuing

1006 care retirement community, containing (i) independent living
1007 accommodations, (ii) personal care beds, and (iii) the nursing
1008 home facility beds. The three (3) components must be located on a
1009 single site and be operated as one (1) inseparable facility. The
1010 nursing facility component must contain a minimum of thirty (30)
1011 beds. Any nursing facility beds authorized by this section will
1012 not be counted against the bed need set forth in the State Health
1013 Plan, as identified in Section 41-7-171, et seq.

1014 This subsection (13) shall stand repealed from and after July
1015 1, 2001.

1016 (14) The State Department of Health shall issue a
1017 certificate of need to any hospital which is currently licensed
1018 for two hundred fifty (250) or more acute care beds and is located
1019 in any general hospital service area not having a comprehensive
1020 cancer center, for the establishment and equipping of such a
1021 center which provides facilities and services for outpatient
1022 radiation oncology therapy, outpatient medical oncology therapy,
1023 and appropriate support services including the provision of
1024 radiation therapy services. The provision of Section 41-7-193(1)
1025 regarding substantial compliance with the projection of need as
1026 reported in the current State Health Plan is waived for the
1027 purpose of this subsection.

1028 (15) Nothing in this section or in any other provision of
1029 Section 41-7-171 et seq. shall prevent any nursing facility from
1030 designating an appropriate number of existing beds in the facility
1031 as beds for providing care exclusively to patients with
1032 Alzheimer's disease.

1033 SECTION 2. This act shall take effect and be in force from

1034 and after July 1, 2000.