

By: Gordon

To: Public Health and  
Welfare;  
Appropriations

SENATE BILL NO. 2866

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE NURSING HOMES TO ADD UP TO 60 NEW BEDS WITHOUT A  
3 CERTIFICATE OF NEED IF THE HOME HAS HAD AN AVERAGE OCCUPANCY RATE  
4 OF AT LEAST 95% FOR THE PREVIOUS 12 MONTHS; TO REQUIRE ANY NURSING  
5 HOME ADDING BEDS UNDER THIS PROVISION TO FIRST FILE A NOTICE OF  
6 INTENT WITH THE STATE DEPARTMENT OF HEALTH; TO REQUIRE A CERTAIN  
7 NUMBER OF THE NEW BEDS TO BE USED TO PROVIDE CARE EXCLUSIVELY TO  
8 PATIENTS WITH ALZHEIMER'S DISEASE; TO REQUIRE SUBSTANTIAL  
9 CONSTRUCTION OF THE NEW BEDS TO BE BEGUN WITHIN 18 MONTHS AFTER  
10 THE NOTICE OF INTENT IS FILED OR THE BEDS WILL NOT BE LICENSED; TO  
11 ALLOW ANY NURSING HOME THAT HAS PREVIOUSLY ADDED NEW BEDS UNDER  
12 THIS PROVISION TO ADD MORE NEW BEDS UNDER THIS PROVISION BEGINNING  
13 12 MONTHS AFTER THE PREVIOUSLY ADDED BEDS ARE OPERATIONAL; AND FOR  
14 RELATED PURPOSES.

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

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

18 41-7-191. (1) No person shall engage in any of the  
19 following activities without obtaining the required certificate of  
20 need:

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

23 (b) The relocation of a health care facility or portion  
24 thereof, or major medical equipment, unless such relocation of a  
25 health care facility or portion thereof, or major medical  
26 equipment, which does not involve a capital expenditure by or on  
27 behalf of a health care facility, is within one thousand three  
28 hundred twenty (1,320) feet from the main entrance of the health  
29 care facility;

30 (c) A change over a period of two (2) years' time, as  
31 established by the State Department of Health, in existing bed  
32 complement through the addition of more than ten (10) beds or more

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

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

- 53 (i) Open heart surgery services;
- 54 (ii) Cardiac catheterization services;
- 55 (iii) Comprehensive inpatient rehabilitation  
56 services;
- 57 (iv) Licensed psychiatric services;
- 58 (v) Licensed chemical dependency services;
- 59 (vi) Radiation therapy services;
- 60 (vii) Diagnostic imaging services of an invasive  
61 nature, i.e. invasive digital angiography;
- 62 (viii) Nursing home care as defined in  
63 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 64 (ix) Home health services;
- 65 (x) Swing-bed services;
- 66 (xi) Ambulatory surgical services;
- 67 (xii) Magnetic resonance imaging services;
- 68 (xiii) Extracorporeal shock wave lithotripsy  
69 services;

70 (xiv) Long-term care hospital services;

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

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

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

95 (g) Changes of ownership of existing health care  
96 facilities in which a notice of intent is not filed with the State  
97 Department of Health at least thirty (30) days prior to the date  
98 such change of ownership occurs, or a change in services or bed  
99 capacity as prescribed in paragraph (c) or (d) of this subsection  
100 as a result of the change of ownership; an acquisition for less  
101 than fair market value must be reviewed, if the acquisition at  
102 fair market value would be subject to review;

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

111           (i) Any activity described in paragraphs (a) through  
112 (h) if undertaken by any person if that same activity would  
113 require certificate of need approval if undertaken by a health  
114 care facility;

115           (j) Any capital expenditure or deferred capital  
116 expenditure by or on behalf of a health care facility not covered  
117 by paragraphs (a) through (h);

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

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

131           (a) The department may issue a certificate of need to  
132 any person proposing the new construction of any health care  
133 facility defined in subparagraphs (iv) and (vi) of Section  
134 41-7-173(h) as part of a life care retirement facility, in any  
135 county bordering on the Gulf of Mexico in which is located a

136 National Aeronautics and Space Administration facility, not to  
137 exceed forty (40) beds. From and after July 1, 1999, there shall  
138 be no prohibition or restrictions on participation in the Medicaid  
139 program (Section 43-13-101 et seq.) for the beds in the health  
140 care facility that were authorized under this paragraph (a).

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

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

169 shall deny or revoke the license of the skilled nursing facility,  
170 at the time that the department determines, after a hearing  
171 complying with due process, that the facility has failed to comply  
172 with any of the conditions upon which the certificate of need was  
173 issued, as provided in this paragraph and in the written agreement  
174 by the recipient of the certificate of need. The total number of  
175 beds that may be authorized under the authority of this paragraph  
176 (c) shall not exceed sixty (60) beds.

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

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

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

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

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

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

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

257           (j) The department may issue certificates of need to  
258 allow any existing freestanding long-term care facility in  
259 Tishomingo County and Hancock County that on July 1, 1995, is  
260 licensed with fewer than sixty (60) beds. For the purposes of  
261 this paragraph (j), the provision of Section 41-7-193(1) requiring  
262 substantial compliance with the projection of need as reported in  
263 the current State Health Plan is waived. From and after July 1,  
264 1999, there shall be no prohibition or restrictions on  
265 participation in the Medicaid program (Section 43-13-101 et seq.)  
266 for the beds in the long-term care facilities that were authorized  
267 under this paragraph (j).



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

296           (l) Provided that funds are specifically appropriated  
297 therefor by the Legislature, the department may issue a  
298 certificate of need to a rehabilitation hospital in Hinds County  
299 for the construction of a sixty-bed long-term care nursing  
300 facility dedicated to the care and treatment of persons with

301 severe disabilities including persons with spinal cord and  
302 closed-head injuries and ventilator-dependent patients. The  
303 provision of Section 41-7-193(1) regarding substantial compliance  
304 with projection of need as reported in the current State Health  
305 Plan is hereby waived for the purpose of this paragraph.

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

334 within twelve (12) months after July 1, 2001, the department shall  
335 deny the application for the certificate of need and shall not  
336 issue the certificate of need at any time after the twelve-month  
337 period, unless the issuance is contested. If the certificate of  
338 need is issued and substantial construction of the nursing  
339 facility beds has not commenced within eighteen (18) months after  
340 July 1, 2001, the State Department of Health, after a hearing  
341 complying with due process, shall revoke the certificate of need  
342 if it is still outstanding, and the department shall not issue a  
343 license for the nursing facility at any time after the  
344 eighteen-month period. Provided, however, that if the issuance of  
345 the certificate of need is contested, the department shall require  
346 substantial construction of the nursing facility beds within six  
347 (6) months after final adjudication on the issuance of the  
348 certificate of need.

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

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

393 (o) The department may issue a certificate of need for  
394 the new construction, addition or conversion of skilled nursing  
395 facility beds in Leake County, provided that the recipient of the  
396 certificate of need agrees in writing that the skilled nursing  
397 facility will not at any time participate in the Medicaid program  
398 (Section 43-13-101 et seq.) or admit or keep any patients in the  
399 skilled nursing facility who are participating in the Medicaid

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

433 however, that if the issuance of the certificate of need is  
434 contested, the department shall require substantial construction  
435 of the nursing facility beds within six (6) months after final  
436 adjudication on the issuance of the certificate of need.

437           (p) The department may issue a certificate of need for  
438 the construction of a municipally-owned nursing facility within  
439 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
440 beds, provided that the recipient of the certificate of need  
441 agrees in writing that the skilled nursing facility will not at  
442 any time participate in the Medicaid program (Section 43-13-101 et  
443 seq.) or admit or keep any patients in the skilled nursing  
444 facility who are participating in the Medicaid program. This  
445 written agreement by the recipient of the certificate of need  
446 shall be fully binding on any subsequent owner of the skilled  
447 nursing facility, if the ownership of the facility is transferred  
448 at any time after the issuance of the certificate of need.  
449 Agreement that the skilled nursing facility will not participate  
450 in the Medicaid program shall be a condition of the issuance of a  
451 certificate of need to any person under this paragraph (p), and if  
452 such skilled nursing facility at any time after the issuance of  
453 the certificate of need, regardless of the ownership of the  
454 facility, participates in the Medicaid program or admits or keeps  
455 any patients in the facility who are participating in the Medicaid  
456 program, the State Department of Health shall revoke the  
457 certificate of need, if it is still outstanding, and shall deny or  
458 revoke the license of the skilled nursing facility, at the time  
459 that the department determines, after a hearing complying with due  
460 process, that the facility has failed to comply with any of the  
461 conditions upon which the certificate of need was issued, as  
462 provided in this paragraph and in the written agreement by the  
463 recipient of the certificate of need. The provision of Section  
464 43-7-193(1) regarding substantial compliance of the projection of  
465 need as reported in the current State Health Plan is waived for

466 the purposes of this paragraph. If the certificate of need  
467 authorized under this paragraph is not issued within twelve (12)  
468 months after July 1, 1998, the department shall deny the  
469 application for the certificate of need and shall not issue the  
470 certificate of need at any time after the twelve-month period,  
471 unless the issuance is contested. If the certificate of need is  
472 issued and substantial construction of the nursing facility beds  
473 has not commenced within eighteen (18) months after July 1, 1998,  
474 the State Department of Health, after a hearing complying with due  
475 process, shall revoke the certificate of need if it is still  
476 outstanding, and the department shall not issue a license for the  
477 nursing facility at any time after the eighteen-month period.  
478 Provided, however, that if the issuance of the certificate of need  
479 is contested, the department shall require substantial  
480 construction of the nursing facility beds within six (6) months  
481 after final adjudication on the issuance of the certificate of  
482 need.

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

493 (ii) Subject to the provisions of subparagraph  
494 (v), during each of the next four (4) fiscal years, the department  
495 shall issue six (6) certificates of need for new nursing facility  
496 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
497 (1) certificate of need shall be issued for new nursing facility  
498 beds in the county in each of the four (4) Long-Term Care Planning

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

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

530 (iv) Subject to the provisions of subparagraph  
531 (v), the certificate of need issued under subparagraph (ii) for



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

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

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

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

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

596           (3) The State Department of Health may grant approval for  
597 and issue certificates of need to any person proposing the new

598 construction of, addition to, conversion of beds of or expansion  
599 of any health care facility defined in subparagraph (x)  
600 (psychiatric residential treatment facility) of Section  
601 41-7-173(h). The total number of beds which may be authorized by  
602 such certificates of need shall not exceed two hundred  
603 seventy-four (274) beds for the entire state.

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

613 (b) Of the total number of beds authorized under this  
614 subsection, the department may issue a certificate or certificates  
615 of need for the construction or expansion of psychiatric  
616 residential treatment facility beds or the conversion of other  
617 beds to psychiatric residential treatment facility beds in Warren  
618 County, not to exceed sixty (60) psychiatric residential treatment  
619 facility beds, provided that the facility agrees in writing that  
620 no more than thirty (30) of the beds at the psychiatric  
621 residential treatment facility will be certified for participation  
622 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
623 any patients other than those who are participating only in the  
624 Medicaid program of another state, and that no claim will be  
625 submitted to the Division of Medicaid for Medicaid reimbursement  
626 for more than thirty (30) patients in the psychiatric residential  
627 treatment facility in any day or for any patient in the  
628 psychiatric residential treatment facility who is in a bed that is  
629 not Medicaid-certified. This written agreement by the recipient  
630 of the certificate of need shall be a condition of the issuance of

631 the certificate of need under this paragraph, and the agreement  
632 shall be fully binding on any subsequent owner of the psychiatric  
633 residential treatment facility if the ownership of the facility is  
634 transferred at any time after the issuance of the certificate of  
635 need. After this written agreement is executed, the Division of  
636 Medicaid and the State Department of Health shall not certify more  
637 than thirty (30) of the beds in the psychiatric residential  
638 treatment facility for participation in the Medicaid program for  
639 the use of any patients other than those who are participating  
640 only in the Medicaid program of another state. If the psychiatric  
641 residential treatment facility violates the terms of the written  
642 agreement by admitting or keeping in the facility on a regular or  
643 continuing basis more than thirty (30) patients who are  
644 participating in the Mississippi Medicaid program, the State  
645 Department of Health shall revoke the license of the facility, at  
646 the time that the department determines, after a hearing complying  
647 with due process, that the facility has violated the condition  
648 upon which the certificate of need was issued, as provided in this  
649 paragraph and in the written agreement.

650 (c) Of the total number of beds authorized under this  
651 subsection, the department shall issue a certificate of need to a  
652 hospital currently operating Medicaid-certified acute psychiatric  
653 beds for adolescents in DeSoto County, for the establishment of a  
654 forty-bed psychiatric residential treatment facility in DeSoto  
655 County, provided that the hospital agrees in writing (i) that the  
656 hospital shall give priority for the use of those forty (40) beds  
657 to Mississippi residents who are presently being treated in  
658 out-of-state facilities, and (ii) that no more than fifteen (15)  
659 of the beds at the psychiatric residential treatment facility will  
660 be certified for participation in the Medicaid program (Section  
661 43-13-101 et seq.), and that no claim will be submitted for  
662 Medicaid reimbursement for more than fifteen (15) patients in the  
663 psychiatric residential treatment facility in any day or for any

664 patient in the psychiatric residential treatment facility who is  
665 in a bed that is not Medicaid-certified. This written agreement  
666 by the recipient of the certificate of need shall be a condition  
667 of the issuance of the certificate of need under this paragraph,  
668 and the agreement shall be fully binding on any subsequent owner  
669 of the psychiatric residential treatment facility if the ownership  
670 of the facility is transferred at any time after the issuance of  
671 the certificate of need. After this written agreement is  
672 executed, the Division of Medicaid and the State Department of  
673 Health shall not certify more than fifteen (15) of the beds in the  
674 psychiatric residential treatment facility for participation in  
675 the Medicaid program. If the psychiatric residential treatment  
676 facility violates the terms of the written agreement by admitting  
677 or keeping in the facility on a regular or continuing basis more  
678 than fifteen (15) patients who are participating in the Medicaid  
679 program, the State Department of Health shall revoke the license  
680 of the facility, at the time that the department determines, after  
681 a hearing complying with due process, that the facility has  
682 violated the condition upon which the certificate of need was  
683 issued, as provided in this paragraph and in the written  
684 agreement.

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

693 (e) Of the total number of beds authorized under this  
694 subsection (3) the department shall issue a certificate of need to  
695 a privately owned, nonprofit psychiatric residential treatment  
696 facility in Hinds County for an eight-bed expansion of the

697 facility, provided that the facility agrees in writing that the  
698 facility shall give priority for the use of those eight (8) beds  
699 to Mississippi residents who are presently being treated in  
700 out-of-state facilities.

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

717 (i) The department may issue certificates of need  
718 to any person for any purpose described in this subsection,  
719 provided that the hospital, psychiatric hospital or chemical  
720 dependency hospital does not participate in the Medicaid program  
721 (Section 43-13-101 et seq.) at the time of the application for the  
722 certificate of need and the owner of the hospital, psychiatric  
723 hospital or chemical dependency hospital agrees in writing that  
724 the hospital, psychiatric hospital or chemical dependency hospital  
725 will not at any time participate in the Medicaid program or admit  
726 or keep any patients who are participating in the Medicaid program  
727 in the hospital, psychiatric hospital or chemical dependency  
728 hospital. This written agreement by the recipient of the  
729 certificate of need shall be fully binding on any subsequent owner

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

752                   (ii) The department may issue a certificate of  
753 need for the conversion of existing beds in a county hospital in  
754 Choctaw County from acute care beds to child/adolescent chemical  
755 dependency beds. For purposes of this subparagraph, the  
756 provisions of Section 41-7-193(1) requiring substantial compliance  
757 with the projection of need as reported in the current State  
758 Health Plan is waived. The total number of beds that may be  
759 authorized under authority of this subparagraph shall not exceed  
760 twenty (20) beds. There shall be no prohibition or restrictions  
761 on participation in the Medicaid program (Section 43-13-101 et  
762 seq.) for the hospital receiving the certificate of need

763 authorized under this subparagraph (a)(ii) or for the beds  
764 converted pursuant to the authority of that certificate of need.

765 (iii) The department may issue a certificate or  
766 certificates of need for the construction or expansion of  
767 child/adolescent psychiatric beds or the conversion of other beds  
768 to child/adolescent psychiatric beds in Warren County. For  
769 purposes of this subparagraph, the provisions of Section  
770 41-7-193(1) requiring substantial compliance with the projection  
771 of need as reported in the current State Health Plan are waived.

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

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

779 (iv) The department shall issue a certificate of  
780 need to the Region 7 Mental Health/Retardation Commission for the  
781 construction or expansion of child/adolescent psychiatric beds or  
782 the conversion of other beds to child/adolescent psychiatric beds  
783 in any of the counties served by the commission. For purposes of  
784 this subparagraph, the provisions of Section 41-7-193(1) requiring  
785 substantial compliance with the projection of need as reported in  
786 the current State Health Plan is waived. The total number of beds  
787 that may be authorized under the authority of this subparagraph  
788 shall not exceed twenty (20) beds. There shall be no prohibition  
789 or restrictions on participation in the Medicaid program (Section  
790 43-13-101 et seq.) for the person receiving the certificate of  
791 need authorized under this subparagraph (a)(iv) or for the beds  
792 converted pursuant to the authority of that certificate of need.

793 (v) The department may issue a certificate of need  
794 to any county hospital located in Leflore County for the  
795 construction or expansion of adult psychiatric beds or the



796 conversion of other beds to adult psychiatric beds, not to exceed  
797 twenty (20) beds, provided that the recipient of the certificate  
798 of need agrees in writing that the adult psychiatric beds will not  
799 at any time be certified for participation in the Medicaid program  
800 and that the hospital will not admit or keep any patients who are  
801 participating in the Medicaid program in any of such adult  
802 psychiatric beds. This written agreement by the recipient of the  
803 certificate of need shall be fully binding on any subsequent owner  
804 of the hospital if the ownership of the hospital is transferred at  
805 any time after the issuance of the certificate of need. Agreement  
806 that the adult psychiatric beds will not be certified for  
807 participation in the Medicaid program shall be a condition of the  
808 issuance of a certificate of need to any person under this  
809 subparagraph (a)(v), and if such hospital at any time after the  
810 issuance of the certificate of need, regardless of the ownership  
811 of the hospital, has any of such adult psychiatric beds certified  
812 for participation in the Medicaid program or admits or keeps any  
813 Medicaid patients in such adult psychiatric beds, the State  
814 Department of Health shall revoke the certificate of need, if it  
815 is still outstanding, and shall deny or revoke the license of the  
816 hospital at the time that the department determines, after a  
817 hearing complying with due process, that the hospital has failed  
818 to comply with any of the conditions upon which the certificate of  
819 need was issued, as provided in this subparagraph and in the  
820 written agreement by the recipient of the certificate of need.

821 (vi) The department may issue a certificate or  
822 certificates of need for the expansion of child psychiatric beds  
823 or the conversion of other beds to child psychiatric beds at the  
824 University of Mississippi Medical Center. For purposes of this  
825 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
826 requiring substantial compliance with the projection of need as  
827 reported in the current State Health Plan is waived. The total  
828 number of beds that may be authorized under the authority of this

829 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
830 shall be no prohibition or restrictions on participation in the  
831 Medicaid program (Section 43-13-101 et seq.) for the hospital  
832 receiving the certificate of need authorized under this  
833 subparagraph (a)(vi) or for the beds converted pursuant to the  
834 authority of that certificate of need.

835 (b) From and after July 1, 1990, no hospital,  
836 psychiatric hospital or chemical dependency hospital shall be  
837 authorized to add any child/adolescent psychiatric or  
838 child/adolescent chemical dependency beds or convert any beds of  
839 another category to child/adolescent psychiatric or  
840 child/adolescent chemical dependency beds without a certificate of  
841 need under the authority of subsection (1)(c) of this section.

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

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

862 if such long-term care hospital at any time after the issuance of  
863 the certificate of need, regardless of the ownership of the  
864 facility, participates in the Medicaid program or admits or keeps  
865 any patients in the facility who are participating in the Medicaid  
866 program, the State Department of Health shall revoke the  
867 certificate of need, if it is still outstanding, and shall deny or  
868 revoke the license of the long-term care hospital, at the time  
869 that the department determines, after a hearing complying with due  
870 process, that the facility has failed to comply with any of the  
871 conditions upon which the certificate of need was issued, as  
872 provided in this subsection and in the written agreement by the  
873 recipient of the certificate of need. For purposes of this  
874 subsection, the provision of Section 41-7-193(1) requiring  
875 substantial compliance with the projection of need as reported in  
876 the current State Health Plan is hereby waived.

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

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

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

919 (9) The Department of Health shall not grant approval for or  
920 issue a certificate of need to any person proposing the  
921 establishment of, or expansion of the currently approved territory  
922 of, or the contracting to establish a home office, subunit or  
923 branch office within the space operated as a health care facility  
924 as defined in Section 41-7-173(h)(i) through (viii) by a health  
925 care facility as defined in subparagraph (ix) of Section  
926 41-7-173(h).

927 (10) Health care facilities owned and/or operated by the

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

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

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

959 (13) The new construction of a nursing facility or nursing  
960 facility beds or the conversion of other beds to nursing facility

961 beds shall not require the issuance of a certificate of need,  
962 notwithstanding any provision in Section 41-7-171 et seq. to the  
963 contrary, if the conditions of this subsection are met.

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

993           (b) For the purposes of this subsection, participation

994 in the Medicaid program by a nursing facility includes Medicaid  
995 reimbursement of coinsurance and deductibles for recipients who  
996 are qualified Medicare beneficiaries and/or those who are dually  
997 eligible. Any nursing facility exercising the authority under  
998 this subsection may not bill or submit a claim to the Division of  
999 Medicaid for services to qualified Medicare beneficiaries and/or  
1000 those who are dually eligible.

1001 (c) The new construction of a nursing facility or  
1002 nursing facility beds or the conversion of other beds to nursing  
1003 facility beds described in this section must be either a part of a  
1004 completely new continuing care retirement community, as described  
1005 in the latest edition of the Mississippi State Health Plan, or an  
1006 addition to existing personal care and independent living  
1007 components, and so that the completed project will be a continuing  
1008 care retirement community, containing (i) independent living  
1009 accommodations, (ii) personal care beds, and (iii) the nursing  
1010 home facility beds. The three (3) components must be located on a  
1011 single site and be operated as one (1) inseparable facility. The  
1012 nursing facility component must contain a minimum of thirty (30)  
1013 beds. Any nursing facility beds authorized by this section will  
1014 not be counted against the bed need set forth in the State Health  
1015 Plan, as identified in Section 41-7-171, et seq.

1016 This subsection (13) shall stand repealed from and after July  
1017 1, 2001.

1018 (14) A nursing facility may construct new nursing facility  
1019 beds or convert other beds to nursing facility beds without the  
1020 issuance of a certificate of need, notwithstanding any provision  
1021 in Section 41-7-171 et seq. to the contrary, if all of the  
1022 conditions of this subsection are met.

1023 (a) A nursing facility may not add more than sixty (60)  
1024 new nursing facility beds under this subsection at any one time.

1025 (b) Before a nursing facility may add any new nursing  
1026 facility beds under this subsection, the owner of the facility

1027 shall first file a written notice of intent with the State  
1028 Department of Health that the facility intends to add new nursing  
1029 facility beds under this subsection. The facility shall include  
1030 in the notice of intent the number of new nursing facility beds  
1031 that it intends to add, and the time period within which the new  
1032 beds will be operational.

1033 (c) The nursing facility must have had an average rate  
1034 of occupancy for the nursing facility beds in the facility that is  
1035 not less than ninety-five percent (95%), rounded to the nearest  
1036 whole number, for the twelve-month period immediately preceding  
1037 the date on which the facility files the notice of intent with the  
1038 department.

1039 (d) The nursing facility shall use not less than  
1040 one-third (1/3) of the new nursing facility beds that are added by  
1041 the facility under this subsection, rounded to the nearest whole  
1042 number, or ten (10) of those new beds, whichever is greater, to  
1043 provide care exclusively to patients with Alzheimer's disease.  
1044 The nursing facility must indicate in the notice of intent filed  
1045 with the department the number of the new beds that will be used  
1046 to provide care exclusively to patients with Alzheimer's disease,  
1047 and the facility shall not use those beds for any other purpose.  
1048 The beds that are used to provide care exclusively to patients  
1049 with Alzheimer's disease shall meet the same staffing levels,  
1050 space requirements and other standards and requirements prescribed  
1051 by the department under paragraph (r)(iii) of this section.

1052 (e) For any new nursing facility beds added under this  
1053 subsection that are to be constructed, the nursing facility must  
1054 begin substantial construction of the beds within eighteen (18)  
1055 months after the date on which the facility files the notice of  
1056 intent with the department. If substantial construction of the  
1057 new beds is not begun within the eighteen-month period, the  
1058 department shall not issue a license for the new beds at any time  
1059 after the eighteen-month period.



1060           (f) After the nursing facility has added new nursing  
1061 facility beds under this subsection, the facility may add new  
1062 nursing facility beds again under this subsection at any time  
1063 beginning twelve (12) months after the beds that were previously  
1064 added under this subsection are operational, if all the conditions  
1065 of this subsection are met with regard to the later addition of  
1066 new beds.

1067           (15) The State Department of Health shall issue a  
1068 certificate of need to any hospital which is currently licensed  
1069 for two hundred fifty (250) or more acute care beds and is located  
1070 in any general hospital service area not having a comprehensive  
1071 cancer center, for the establishment and equipping of such a  
1072 center which provides facilities and services for outpatient  
1073 radiation oncology therapy, outpatient medical oncology therapy,  
1074 and appropriate support services including the provision of  
1075 radiation therapy services. The provision of Section 41-7-193(1)  
1076 regarding substantial compliance with the projection of need as  
1077 reported in the current State Health Plan is waived for the  
1078 purpose of this subsection.

1079           (16) Nothing in this section or in any other provision of  
1080 Section 41-7-171 et seq. shall prevent any nursing facility from  
1081 designating an appropriate number of existing beds in the facility  
1082 as beds for providing care exclusively to patients with  
1083 Alzheimer's disease.

1084           SECTION 2. This act shall take effect and be in force from  
1085 and after July 1, 2000.