

By: Representative Ford

To: Public Health and  
Welfare; Appropriations

HOUSE BILL NO. 470

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 WHICH CONTAINS THE PROVISION OF LAW THAT DOES NOT REQUIRE A  
3 NURSING FACILITY TO OBTAIN A CERTIFICATE OF NEED WHERE CERTAIN  
4 CONDITIONS HAVE BEEN MET, TO EXTEND THE REPEAL DATE FROM JULY 1,  
5 2001, TO JULY 1, 2002; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 41-7-191, Mississippi Code of 1972, is  
8 amended as follows:

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

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

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

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

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

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

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

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

63 (e) The relocation of one or more health services from  
64 one physical facility or site to another physical facility or  
65 site, unless such relocation, which does not involve a capital  
66 expenditure by or on behalf of a health care facility, (i) is to a  
67 physical facility or site within one thousand three hundred twenty  
68 (1,320) feet from the main entrance of the health care facility  
69 where the health care service is located, or (ii) is the result of  
70 an order of a court of appropriate jurisdiction or a result of  
71 pending litigation in such court, or by order of the State  
72 Department of Health, or by order of any other agency or legal  
73 entity of the state, the federal government, or any political  
74 subdivision of either, whose order is also approved by the State  
75 Department of Health;

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

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

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

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

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

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

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

122           (a) The department may issue a certificate of need to  
123 any person proposing the new construction of any health care  
124 facility defined in subparagraphs (iv) and (vi) of Section  
125 41-7-173(h) as part of a life care retirement facility, in any  
126 county bordering on the Gulf of Mexico in which is located a

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

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

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

160 shall deny or revoke the license of the skilled nursing facility,  
161 at the time that the department determines, after a hearing  
162 complying with due process, that the facility has failed to comply  
163 with any of the conditions upon which the certificate of need was  
164 issued, as provided in this paragraph and in the written agreement  
165 by the recipient of the certificate of need. The total number of  
166 beds that may be authorized under the authority of this paragraph  
167 (c) shall not exceed sixty (60) beds.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

424 however, that if the issuance of the certificate of need is  
425 contested, the department shall require substantial construction  
426 of the nursing facility beds within six (6) months after final  
427 adjudication on the issuance of the certificate of need.

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

440 Agreement that the skilled nursing facility will not participate  
441 in the Medicaid program shall be a condition of the issuance of a  
442 certificate of need to any person under this paragraph (p), and if  
443 such skilled nursing facility at any time after the issuance of  
444 the certificate of need, regardless of the ownership of the  
445 facility, participates in the Medicaid program or admits or keeps  
446 any patients in the facility who are participating in the Medicaid  
447 program, the State Department of Health shall revoke the  
448 certificate of need, if it is still outstanding, and shall deny or  
449 revoke the license of the skilled nursing facility, at the time  
450 that the department determines, after a hearing complying with due  
451 process, that the facility has failed to comply with any of the  
452 conditions upon which the certificate of need was issued, as  
453 provided in this paragraph and in the written agreement by the  
454 recipient of the certificate of need. The provision of Section  
455 43-7-193(1) regarding substantial compliance of the projection of  
456 need as reported in the current State Health Plan is waived for

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

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

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

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

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

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



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

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

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

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

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

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

589 construction of, addition to, conversion of beds of or expansion  
590 of any health care facility defined in subparagraph (x)  
591 (psychiatric residential treatment facility) of Section  
592 41-7-173(h). The total number of beds which may be authorized by  
593 such certificates of need shall not exceed two hundred  
594 seventy-four (274) beds for the entire state.

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

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

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

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

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

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

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

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

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

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

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

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

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

756 (iii) The department may issue a certificate or  
757 certificates of need for the construction or expansion of  
758 child/adolescent psychiatric beds or the conversion of other beds  
759 to child/adolescent psychiatric beds in Warren County. For  
760 purposes of this subparagraph, the provisions of Section  
761 41-7-193(1) requiring substantial compliance with the projection  
762 of need as reported in the current State Health Plan are waived.  
763 The total number of beds that may be authorized under the  
764 authority of this subparagraph shall not exceed twenty (20) beds.  
765 There shall be no prohibition or restrictions on participation in  
766 the Medicaid program (Section 43-13-101 et seq.) for the person  
767 receiving the certificate of need authorized under this  
768 subparagraph (a)(iii) or for the beds converted pursuant to the  
769 authority of that certificate of need.

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

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



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

812                   (vi) The department may issue a certificate or  
813 certificates of need for the expansion of child psychiatric beds  
814 or the conversion of other beds to child psychiatric beds at the  
815 University of Mississippi Medical Center. For purposes of this  
816 subparagraph (a)(vi), the provision of Section 41-7-193(1)  
817 requiring substantial compliance with the projection of need as  
818 reported in the current State Health Plan is waived. The total  
819 number of beds that may be authorized under the authority of this

820 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
821 shall be no prohibition or restrictions on participation in the  
822 Medicaid program (Section 43-13-101 et seq.) for the hospital  
823 receiving the certificate of need authorized under this  
824 subparagraph (a)(vi) or for the beds converted pursuant to the  
825 authority of that certificate of need.

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

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

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

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

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

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

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

910 (9) The Department of Health shall not grant approval for or  
911 issue a certificate of need to any person proposing the  
912 establishment of, or expansion of the currently approved territory  
913 of, or the contracting to establish a home office, subunit or  
914 branch office within the space operated as a health care facility  
915 as defined in Section 41-7-173(h)(i) through (viii) by a health  
916 care facility as defined in subparagraph (ix) of Section  
917 41-7-173(h).

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

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

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

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

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

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

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

992 (c) The new construction of a nursing facility or  
993 nursing facility beds or the conversion of other beds to nursing  
994 facility beds described in this section must be either a part of a  
995 completely new continuing care retirement community, as described  
996 in the latest edition of the Mississippi State Health Plan, or an  
997 addition to existing personal care and independent living  
998 components, and so that the completed project will be a continuing  
999 care retirement community, containing (i) independent living  
1000 accommodations, (ii) personal care beds, and (iii) the nursing  
1001 home facility beds. The three (3) components must be located on a  
1002 single site and be operated as one (1) inseparable facility. The  
1003 nursing facility component must contain a minimum of thirty (30)  
1004 beds. Any nursing facility beds authorized by this section will  
1005 not be counted against the bed need set forth in the State Health  
1006 Plan, as identified in Section 41-7-171, et seq.

1007 This subsection (13) shall stand repealed from and after July  
1008 1, 2002.

1009 (14) The State Department of Health shall issue a  
1010 certificate of need to any hospital which is currently licensed  
1011 for two hundred fifty (250) or more acute care beds and is located  
1012 in any general hospital service area not having a comprehensive  
1013 cancer center, for the establishment and equipping of such a  
1014 center which provides facilities and services for outpatient

1015 radiation oncology therapy, outpatient medical oncology therapy,  
1016 and appropriate support services including the provision of  
1017 radiation therapy services. The provision of Section 41-7-193(1)  
1018 regarding substantial compliance with the projection of need as  
1019 reported in the current State Health Plan is waived for the  
1020 purpose of this subsection.

1021 (15) Nothing in this section or in any other provision of  
1022 Section 41-7-171 et seq. shall prevent any nursing facility from  
1023 designating an appropriate number of existing beds in the facility  
1024 as beds for providing care exclusively to patients with  
1025 Alzheimer's disease.

1026 SECTION 2. This act shall take effect and be in force from  
1027 and after July 1, 2001.