

By: Representatives Young, Scott (80th)

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 767
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR ADDITIONAL
3 ADOLESCENT PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN
4 LAUDERDALE COUNTY; TO REQUIRE THE FACILITY TO GIVE PRIORITY IN
5 ADMISSIONS TO THOSE BEDS TO PATIENTS WHO OTHERWISE WOULD REQUIRE
6 OUT-OF-STATE PLACEMENT; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

62 (xiv) Long-term care hospital services;

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

64 (e) The relocation of one or more health services from

65 one physical facility or site to another physical facility or

66 site, unless such relocation, which does not involve a capital

67 expenditure by or on behalf of a health care facility, (i) is to a

68 physical facility or site within one thousand three hundred twenty

69 (1,320) feet from the main entrance of the health care facility

70 where the health care service is located, or (ii) is the result of

71 an order of a court of appropriate jurisdiction or a result of

72 pending litigation in such court, or by order of the State

73 Department of Health, or by order of any other agency or legal

74 entity of the state, the federal government, or any political

75 subdivision of either, whose order is also approved by the State

76 Department of Health;

77 (f) The acquisition or otherwise control of any major

78 medical equipment for the provision of medical services; provided,

79 however, (i) the acquisition of any major medical equipment used

80 only for research purposes, and (ii) the acquisition of major

81 medical equipment to replace medical equipment for which a

82 facility is already providing medical services and for which the

83 State Department of Health has been notified before the date of

84 such acquisition shall be exempt from this paragraph; an

85 acquisition for less than fair market value must be reviewed, if

86 the acquisition at fair market value would be subject to review;

87 (g) Changes of ownership of existing health care

88 facilities in which a notice of intent is not filed with the State

89 Department of Health at least thirty (30) days prior to the date

90 such change of ownership occurs, or a change in services or bed

91 capacity as prescribed in paragraph (c) or (d) of this subsection

92 as a result of the change of ownership; an acquisition for less

93 than fair market value must be reviewed, if the acquisition at

94 fair market value would be subject to review;

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

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

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

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

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

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

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

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

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

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

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

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

186 (f) The State Department of Health may issue a
187 certificate of need for conversion of a county hospital facility
188 in Itawamba County to a nursing facility, not to exceed sixty (60)
189 beds, including any necessary construction, renovation or
190 expansion. 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 (f).

194 (g) The State Department of Health may issue a
195 certificate of need for the construction or expansion of nursing
196 facility beds or the conversion of other beds to nursing facility
197 beds in either Hinds, Madison or Rankin Counties, not to exceed
198 sixty (60) beds. 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 (g).

202 (h) 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 Hancock, Harrison or Jackson Counties, not to
206 exceed sixty (60) beds. From and after July 1, 1999, there shall
207 be no prohibition or restrictions on participation in the Medicaid
208 program (Section 43-13-101 et seq.) for the beds in the facility
209 that were authorized under this paragraph (h).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

590 construction of, addition to, conversion of beds of or expansion
591 of any health care facility defined in subparagraph (x)
592 (psychiatric residential treatment facility) of Section
593 41-7-173(h). The total number of beds which may be authorized by
594 such certificates of need shall not exceed three hundred
595 thirty-four (334) beds for the entire state.

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

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

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

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

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

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

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

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

693 (f) The department shall issue a certificate of need to
694 a one-hundred-thirty-four-bed specialty hospital located on
695 twenty-nine and forty-four one-hundredths (29.44) commercial acres
696 at 5900 Highway 39 North in Meridian (Lauderdale County),
697 Mississippi, for the addition, construction or expansion of
698 child/adolescent psychiatric residential treatment facility beds
699 in Lauderdale County. As a condition of issuance of the
700 certificate of need under this paragraph, the facility shall give
701 priority in admissions to the child/adolescent psychiatric
702 residential treatment facility beds authorized under this
703 paragraph to patients who otherwise would require out-of-state
704 placement. The Division of Medicaid, in conjunction with the
705 Department of Human Services, shall furnish the facility a list of
706 all out-of-state patients on a quarterly basis. Furthermore,
707 notice shall also be provided to the parent, custodial parent or
708 guardian of each out-of-state patient notifying them of the
709 priority status granted by this paragraph. For purposes of this
710 paragraph, the provisions of Section 41-7-193(1) requiring
711 substantial compliance with the projection of need as reported in
712 the current State Health Plan are waived. The total number of
713 child/adolescent psychiatric residential treatment facility beds
714 that may be authorized under the authority of this paragraph shall
715 be sixty (60) beds. There shall be no prohibition or restrictions
716 on participation in the Medicaid program (Section 43-13-101 et
717 seq.) for the person receiving the certificate of need authorized
718 under this paragraph or for the beds converted pursuant to the
719 authority of that certificate of need.

720 (4) (a) From and after July 1, 1993, the department shall
721 not issue a certificate of need to any person for the new

722 construction of any hospital, psychiatric hospital or chemical
723 dependency hospital that will contain any child/adolescent
724 psychiatric or child/adolescent chemical dependency beds, or for
725 the conversion of any other health care facility to a hospital,
726 psychiatric hospital or chemical dependency hospital that will
727 contain any child/adolescent psychiatric or child/adolescent
728 chemical dependency beds, or for the addition of any
729 child/adolescent psychiatric or child/adolescent chemical
730 dependency beds in any hospital, psychiatric hospital or chemical
731 dependency hospital, or for the conversion of any beds of another
732 category in any hospital, psychiatric hospital or chemical
733 dependency hospital to child/adolescent psychiatric or
734 child/adolescent chemical dependency beds, except as hereinafter
735 authorized:

736 (i) The department may issue certificates of need
737 to any person for any purpose described in this subsection,
738 provided that the hospital, psychiatric hospital or chemical
739 dependency hospital does not participate in the Medicaid program
740 (Section 43-13-101 et seq.) at the time of the application for the
741 certificate of need and the owner of the hospital, psychiatric
742 hospital or chemical dependency hospital agrees in writing that
743 the hospital, psychiatric hospital or chemical dependency hospital
744 will not at any time participate in the Medicaid program or admit
745 or keep any patients who are participating in the Medicaid program
746 in the hospital, psychiatric hospital or chemical dependency
747 hospital. This written agreement by the recipient of the
748 certificate of need shall be fully binding on any subsequent owner
749 of the hospital, psychiatric hospital or chemical dependency
750 hospital, if the ownership of the facility is transferred at any
751 time after the issuance of the certificate of need. Agreement
752 that the hospital, psychiatric hospital or chemical dependency
753 hospital will not participate in the Medicaid program shall be a
754 condition of the issuance of a certificate of need to any person

755 under this subparagraph (a)(i), and if such hospital, psychiatric
756 hospital or chemical dependency hospital at any time after the
757 issuance of the certificate of need, regardless of the ownership
758 of the facility, participates in the Medicaid program or admits or
759 keeps any patients in the hospital, psychiatric hospital or
760 chemical dependency hospital who are participating in the Medicaid
761 program, the State Department of Health shall revoke the
762 certificate of need, if it is still outstanding, and shall deny or
763 revoke the license of the hospital, psychiatric hospital or
764 chemical dependency hospital, at the time that the department
765 determines, after a hearing complying with due process, that the
766 hospital, psychiatric hospital or chemical dependency hospital has
767 failed to comply with any of the conditions upon which the
768 certificate of need was issued, as provided in this subparagraph
769 and in the written agreement by the recipient of the certificate
770 of need.

771 (ii) The department may issue a certificate of
772 need for the conversion of existing beds in a county hospital in
773 Choctaw County from acute care beds to child/adolescent chemical
774 dependency beds. For purposes of this subparagraph, the
775 provisions of Section 41-7-193(1) requiring substantial compliance
776 with the projection of need as reported in the current State
777 Health Plan is waived. The total number of beds that may be
778 authorized under authority of this subparagraph shall not exceed
779 twenty (20) beds. There shall be no prohibition or restrictions
780 on participation in the Medicaid program (Section 43-13-101 et
781 seq.) for the hospital receiving the certificate of need
782 authorized under this subparagraph (a)(ii) or for the beds
783 converted pursuant to the authority of that certificate of need.

784 (iii) The department may issue a certificate or
785 certificates of need for the construction or expansion of
786 child/adolescent psychiatric beds or the conversion of other beds
787 to child/adolescent psychiatric beds in Warren County. For

788 purposes of this subparagraph, the provisions of Section
789 41-7-193(1) requiring substantial compliance with the projection
790 of need as reported in the current State Health Plan are waived.
791 The total number of beds that may be authorized under the
792 authority of this subparagraph shall not exceed twenty (20) beds.
793 There shall be no prohibition or restrictions on participation in
794 the Medicaid program (Section 43-13-101 et seq.) for the person
795 receiving the certificate of need authorized under this
796 subparagraph (a)(iii) or for the beds converted pursuant to the
797 authority of that certificate of need.

798 (iv) The department shall issue a certificate of
799 need to the Region 7 Mental Health/Retardation Commission for the
800 construction or expansion of child/adolescent psychiatric beds or
801 the conversion of other beds to child/adolescent psychiatric beds
802 in any of the counties served by the commission. For purposes of
803 this subparagraph, the provisions of Section 41-7-193(1) requiring
804 substantial compliance with the projection of need as reported in
805 the current State Health Plan is waived. The total number of beds
806 that may be authorized under the authority of this subparagraph
807 shall not exceed twenty (20) beds. There shall be no prohibition
808 or restrictions on participation in the Medicaid program (Section
809 43-13-101 et seq.) for the person receiving the certificate of
810 need authorized under this subparagraph (a)(iv) or for the beds
811 converted pursuant to the authority of that certificate of need.

812 (v) The department may issue a certificate of need
813 to any county hospital located in Leflore County for the
814 construction or expansion of adult psychiatric beds or the
815 conversion of other beds to adult psychiatric beds, not to exceed
816 twenty (20) beds, provided that the recipient of the certificate
817 of need agrees in writing that the adult psychiatric beds will not
818 at any time be certified for participation in the Medicaid program
819 and that the hospital will not admit or keep any patients who are
820 participating in the Medicaid program in any of such adult

821 psychiatric beds. This written agreement by the recipient of the
822 certificate of need shall be fully binding on any subsequent owner
823 of the hospital if the ownership of the hospital is transferred at
824 any time after the issuance of the certificate of need. Agreement
825 that the adult psychiatric beds will not be certified for
826 participation in the Medicaid program shall be a condition of the
827 issuance of a certificate of need to any person under this
828 subparagraph (a)(v), and if such hospital at any time after the
829 issuance of the certificate of need, regardless of the ownership
830 of the hospital, has any of such adult psychiatric beds certified
831 for participation in the Medicaid program or admits or keeps any
832 Medicaid patients in such adult psychiatric beds, the State
833 Department of Health shall revoke the certificate of need, if it
834 is still outstanding, and shall deny or revoke the license of the
835 hospital at the time that the department determines, after a
836 hearing complying with due process, that the hospital has failed
837 to comply with any of the conditions upon which the certificate of
838 need was issued, as provided in this subparagraph and in the
839 written agreement by the recipient of the certificate of need.

840 (vi) The department may issue a certificate or
841 certificates of need for the expansion of child psychiatric beds
842 or the conversion of other beds to child psychiatric beds at the
843 University of Mississippi Medical Center. For purposes of this
844 subparagraph (a)(vi), the provision of Section 41-7-193(1)
845 requiring substantial compliance with the projection of need as
846 reported in the current State Health Plan is waived. The total
847 number of beds that may be authorized under the authority of this
848 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
849 shall be no prohibition or restrictions on participation in the
850 Medicaid program (Section 43-13-101 et seq.) for the hospital
851 receiving the certificate of need authorized under this
852 subparagraph (a)(vi) or for the beds converted pursuant to the
853 authority of that certificate of need.

854 (b) From and after July 1, 1990, no hospital,
855 psychiatric hospital or chemical dependency hospital shall be
856 authorized to add any child/adolescent psychiatric or
857 child/adolescent chemical dependency beds or convert any beds of
858 another category to child/adolescent psychiatric or
859 child/adolescent chemical dependency beds without a certificate of
860 need under the authority of subsection (1)(c) of this section.

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

864 (6) The State Department of Health shall issue a certificate
865 of need to a Mississippi corporation qualified to manage a
866 long-term care hospital as defined in Section 41-7-173(h)(xii) in
867 Harrison County, not to exceed eighty (80) beds, including any
868 necessary renovation or construction required for licensure and
869 certification, provided that the recipient of the certificate of
870 need agrees in writing that the long-term care hospital will not
871 at any time participate in the Medicaid program (Section 43-13-101
872 et seq.) or admit or keep any patients in the long-term care
873 hospital who are participating in the Medicaid program. This
874 written agreement by the recipient of the certificate of need
875 shall be fully binding on any subsequent owner of the long-term
876 care hospital, if the ownership of the facility is transferred at
877 any time after the issuance of the certificate of need. Agreement
878 that the long-term care hospital will not participate in the
879 Medicaid program shall be a condition of the issuance of a
880 certificate of need to any person under this subsection (6), and
881 if such long-term care hospital at any time after the issuance of
882 the certificate of need, regardless of the ownership of the
883 facility, participates in the Medicaid program or admits or keeps
884 any patients in the facility who are participating in the Medicaid
885 program, the State Department of Health shall revoke the
886 certificate of need, if it is still outstanding, and shall deny or

887 revoke the license of the long-term care hospital, at the time
888 that the department determines, after a hearing complying with due
889 process, that the facility has failed to comply with any of the
890 conditions upon which the certificate of need was issued, as
891 provided in this subsection and in the written agreement by the
892 recipient of the certificate of need. For purposes of this
893 subsection, the provision of Section 41-7-193(1) requiring
894 substantial compliance with the projection of need as reported in
895 the current State Health Plan is hereby waived.

896 (7) The State Department of Health may issue a certificate
897 of need to any hospital in the state to utilize a portion of its
898 beds for the "swing-bed" concept. Any such hospital must be in
899 conformance with the federal regulations regarding such swing-bed
900 concept at the time it submits its application for a certificate
901 of need to the State Department of Health, except that such
902 hospital may have more licensed beds or a higher average daily
903 census (ADC) than the maximum number specified in federal
904 regulations for participation in the swing-bed program. Any
905 hospital meeting all federal requirements for participation in the
906 swing-bed program which receives such certificate of need shall
907 render services provided under the swing-bed concept to any
908 patient eligible for Medicare (Title XVIII of the Social Security
909 Act) who is certified by a physician to be in need of such
910 services, and no such hospital shall permit any patient who is
911 eligible for both Medicaid and Medicare or eligible only for
912 Medicaid to stay in the swing beds of the hospital for more than
913 thirty (30) days per admission unless the hospital receives prior
914 approval for such patient from the Division of Medicaid, Office of
915 the Governor. Any hospital having more licensed beds or a higher
916 average daily census (ADC) than the maximum number specified in
917 federal regulations for participation in the swing-bed program
918 which receives such certificate of need shall develop a procedure
919 to insure that before a patient is allowed to stay in the swing

920 beds of the hospital, there are no vacant nursing home beds
921 available for that patient located within a fifty-mile radius of
922 the hospital. When any such hospital has a patient staying in the
923 swing beds of the hospital and the hospital receives notice from a
924 nursing home located within such radius that there is a vacant bed
925 available for that patient, the hospital shall transfer the
926 patient to the nursing home within a reasonable time after receipt
927 of the notice. Any hospital which is subject to the requirements
928 of the two (2) preceding sentences of this subsection may be
929 suspended from participation in the swing-bed program for a
930 reasonable period of time by the State Department of Health if the
931 department, after a hearing complying with due process, determines
932 that the hospital has failed to comply with any of those
933 requirements.

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

938 (9) The Department of Health shall not grant approval for or
939 issue a certificate of need to any person proposing the
940 establishment of, or expansion of the currently approved territory
941 of, or the contracting to establish a home office, subunit or
942 branch office within the space operated as a health care facility
943 as defined in Section 41-7-173(h)(i) through (viii) by a health
944 care facility as defined in subparagraph (ix) of Section
945 41-7-173(h).

946 (10) Health care facilities owned and/or operated by the
947 state or its agencies are exempt from the restraints in this
948 section against issuance of a certificate of need if such addition
949 or expansion consists of repairing or renovation necessary to
950 comply with the state licensure law. This exception shall not
951 apply to the new construction of any building by such state
952 facility. This exception shall not apply to any health care

953 facilities owned and/or operated by counties, municipalities,
954 districts, unincorporated areas, other defined persons, or any
955 combination thereof.

956 (11) The new construction, renovation or expansion of or
957 addition to any health care facility defined in subparagraph (ii)
958 (psychiatric hospital), subparagraph (iv) (skilled nursing
959 facility), subparagraph (vi) (intermediate care facility),
960 subparagraph (viii) (intermediate care facility for the mentally
961 retarded) and subparagraph (x) (psychiatric residential treatment
962 facility) of Section 41-7-173(h) which is owned by the State of
963 Mississippi and under the direction and control of the State
964 Department of Mental Health, and the addition of new beds or the
965 conversion of beds from one category to another in any such
966 defined health care facility which is owned by the State of
967 Mississippi and under the direction and control of the State
968 Department of Mental Health, shall not require the issuance of a
969 certificate of need under Section 41-7-171 et seq.,
970 notwithstanding any provision in Section 41-7-171 et seq. to the
971 contrary.

972 (12) The new construction, renovation or expansion of or
973 addition to any veterans homes or domiciliaries for eligible
974 veterans of the State of Mississippi as authorized under Section
975 35-1-19 shall not require the issuance of a certificate of need,
976 notwithstanding any provision in Section 41-7-171 et seq. to the
977 contrary.

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

983 (a) Before any construction or conversion may be
984 undertaken without a certificate of need, the owner of the nursing
985 facility, in the case of an existing facility, or the applicant to

986 construct a nursing facility, in the case of new construction,
987 first must file a written notice of intent and sign a written
988 agreement with the State Department of Health that the entire
989 nursing facility will not at any time participate in or have any
990 beds certified for participation in the Medicaid program (Section
991 43-13-101 et seq.), will not admit or keep any patients in the
992 nursing facility who are participating in the Medicaid program,
993 and will not submit any claim for Medicaid reimbursement for any
994 patient in the facility. This written agreement by the owner or
995 applicant shall be a condition of exercising the authority under
996 this subsection without a certificate of need, and the agreement
997 shall be fully binding on any subsequent owner of the nursing
998 facility if the ownership of the facility is transferred at any
999 time after the agreement is signed. After the written agreement
1000 is signed, the Division of Medicaid and the State Department of
1001 Health shall not certify any beds in the nursing facility for
1002 participation in the Medicaid program. If the nursing facility
1003 violates the terms of the written agreement by participating in
1004 the Medicaid program, having any beds certified for participation
1005 in the Medicaid program, admitting or keeping any patient in the
1006 facility who is participating in the Medicaid program, or
1007 submitting any claim for Medicaid reimbursement for any patient in
1008 the facility, the State Department of Health shall revoke the
1009 license of the nursing facility at the time that the department
1010 determines, after a hearing complying with due process, that the
1011 facility has violated the terms of the written agreement.

1012 (b) For the purposes of this subsection, participation
1013 in the Medicaid program by a nursing facility includes Medicaid
1014 reimbursement of coinsurance and deductibles for recipients who
1015 are qualified Medicare beneficiaries and/or those who are dually
1016 eligible. Any nursing facility exercising the authority under
1017 this subsection may not bill or submit a claim to the Division of

1018 Medicaid for services to qualified Medicare beneficiaries and/or
1019 those who are dually eligible.

1020 (c) The new construction of a nursing facility or
1021 nursing facility beds or the conversion of other beds to nursing
1022 facility beds described in this section must be either a part of a
1023 completely new continuing care retirement community, as described
1024 in the latest edition of the Mississippi State Health Plan, or an
1025 addition to existing personal care and independent living
1026 components, and so that the completed project will be a continuing
1027 care retirement community, containing (i) independent living
1028 accommodations, (ii) personal care beds, and (iii) the nursing
1029 home facility beds. The three (3) components must be located on a
1030 single site and be operated as one (1) inseparable facility. The
1031 nursing facility component must contain a minimum of thirty (30)
1032 beds. Any nursing facility beds authorized by this section will
1033 not be counted against the bed need set forth in the State Health
1034 Plan, as identified in Section 41-7-171, et seq.

1035 This subsection (13) shall stand repealed from and after July
1036 1, 2001.

1037 (14) The State Department of Health shall issue a
1038 certificate of need to any hospital which is currently licensed
1039 for two hundred fifty (250) or more acute care beds and is located
1040 in any general hospital service area not having a comprehensive
1041 cancer center, for the establishment and equipping of such a
1042 center which provides facilities and services for outpatient
1043 radiation oncology therapy, outpatient medical oncology therapy,
1044 and appropriate support services including the provision of
1045 radiation therapy services. The provision of Section 41-7-193(1)
1046 regarding substantial compliance with the projection of need as
1047 reported in the current State Health Plan is waived for the
1048 purpose of this subsection.

1049 (15) Nothing in this section or in any other provision of
1050 Section 41-7-171 et seq. shall prevent any nursing facility from

1051 designating an appropriate number of existing beds in the facility
1052 as beds for providing care exclusively to patients with
1053 Alzheimer's disease.

1054 SECTION 2. This act shall take effect and be in force from
1055 and after July 1, 2001.