

By: Senator(s) Gordon

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2136

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

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

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

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

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

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

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

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

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

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

66 (xi) Ambulatory surgical services;
67 (xii) Magnetic resonance imaging services;
68 (xiii) Extracorporeal shock wave lithotripsy
69 services;

70 (xiv) Long-term care hospital services;
71 (xv) Positron Emission Tomography (PET) Services;

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

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

95 (g) Changes of ownership of existing health care
96 facilities in which a notice of intent is not filed with the State
97 Department of Health at least thirty (30) days prior to the date
98 such change of ownership occurs, or a change in services or bed

99 capacity as prescribed in paragraph (c) or (d) of this subsection
100 as a result of the change of ownership; an acquisition for less
101 than fair market value must be reviewed, if the acquisition at
102 fair market value would be subject to review;

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

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

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

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

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

131 (a) The department may issue a certificate of need to
132 any person proposing the new construction of any health care
133 facility defined in subparagraphs (iv) and (vi) of Section
134 41-7-173(h) as part of a life care retirement facility, in any
135 county bordering on the Gulf of Mexico in which is located a
136 National Aeronautics and Space Administration facility, not to
137 exceed forty (40) beds. From and after July 1, 1999, there shall
138 be no prohibition or restrictions on participation in the Medicaid
139 program (Section 43-13-101 et seq.) for the beds in the health
140 care facility that were authorized under this paragraph (a).

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

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

164 after the issuance of the certificate of need, regardless of the
165 ownership of the facility, participates in the Medicaid program or
166 admits or keeps any patients in the facility who are participating
167 in the Medicaid program, the State Department of Health shall
168 revoke the certificate of need, if it is still outstanding, and
169 shall deny or revoke the license of the skilled nursing facility,
170 at the time that the department determines, after a hearing
171 complying with due process, that the facility has failed to comply
172 with any of the conditions upon which the certificate of need was
173 issued, as provided in this paragraph and in the written agreement
174 by the recipient of the certificate of need. The total number of
175 beds that may be authorized under the authority of this paragraph
176 (c) shall not exceed sixty (60) beds.

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

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

194 (f) The State Department of Health may issue a
195 certificate of need for conversion of a county hospital facility
196 in Itawamba County to a nursing facility, not to exceed sixty (60)

197 beds, including any necessary construction, renovation or
198 expansion. From and after July 1, 1999, there shall be no
199 prohibition or restrictions on participation in the Medicaid
200 program (Section 43-13-101 et seq.) for the beds in the nursing
201 facility that were authorized under this paragraph (f).

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

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

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

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

257 (j) The department may issue certificates of need to
258 allow any existing freestanding long-term care facility in
259 Tishomingo County and Hancock County that on July 1, 1995, is
260 licensed with fewer than sixty (60) beds. For the purposes of
261 this paragraph (j), the provision of Section 41-7-193(1) requiring
262 substantial compliance with the projection of need as reported in

263 the current State Health Plan is waived. From and after July 1,
264 1999, there shall be no prohibition or restrictions on
265 participation in the Medicaid program (Section 43-13-101 et seq.)
266 for the beds in the long-term care facilities that were authorized
267 under this paragraph (j).

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

296 (1) Provided that funds are specifically appropriated
297 therefor by the Legislature, the department may issue a
298 certificate of need to a rehabilitation hospital in Hinds County
299 for the construction of a sixty-bed long-term care nursing
300 facility dedicated to the care and treatment of persons with
301 severe disabilities including persons with spinal cord and
302 closed-head injuries and ventilator-dependent patients. The
303 provision of Section 41-7-193(1) regarding substantial compliance
304 with projection of need as reported in the current State Health
305 Plan is hereby waived for the purpose of this paragraph.

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

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

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

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

393 (o) The department may issue a certificate of need for
394 the new construction, addition or conversion of skilled nursing

395 facility beds in Leake County, provided that the recipient of the
396 certificate of need agrees in writing that the skilled nursing
397 facility will not at any time participate in the Medicaid program
398 (Section 43-13-101 et seq.) or admit or keep any patients in the
399 skilled nursing facility who are participating in the Medicaid
400 program. This written agreement by the recipient of the
401 certificate of need shall be fully binding on any subsequent owner
402 of the skilled nursing facility, if the ownership of the facility
403 is transferred at any time after the issuance of the certificate
404 of need. Agreement that the skilled nursing facility will not
405 participate in the Medicaid program shall be a condition of the
406 issuance of a certificate of need to any person under this
407 paragraph (o), and if such skilled nursing facility at any time
408 after the issuance of the certificate of need, regardless of the
409 ownership of the facility, participates in the Medicaid program or
410 admits or keeps any patients in the facility who are participating
411 in the Medicaid program, the State Department of Health shall
412 revoke the certificate of need, if it is still outstanding, and
413 shall deny or revoke the license of the skilled nursing facility,
414 at the time that the department determines, after a hearing
415 complying with due process, that the facility has failed to comply
416 with any of the conditions upon which the certificate of need was
417 issued, as provided in this paragraph and in the written agreement
418 by the recipient of the certificate of need. The total number of
419 nursing facility beds that may be authorized by any certificate of
420 need issued under this paragraph (o) shall not exceed sixty (60)
421 beds. If the certificate of need authorized under this paragraph
422 is not issued within twelve (12) months after July 1, 2001, the
423 department shall deny the application for the certificate of need
424 and shall not issue the certificate of need at any time after the
425 twelve-month period, unless the issuance is contested. If the
426 certificate of need is issued and substantial construction of the
427 nursing facility beds has not commenced within eighteen (18)

428 months after the effective date of July 1, 2001, the State
429 Department of Health, after a hearing complying with due process,
430 shall revoke the certificate of need if it is still outstanding,
431 and the department shall not issue a license for the nursing
432 facility at any time after the eighteen-month period. Provided,
433 however, that if the issuance of the certificate of need is
434 contested, the department shall require substantial construction
435 of the nursing facility beds within six (6) months after final
436 adjudication on the issuance of the certificate of need.

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

461 conditions upon which the certificate of need was issued, as
462 provided in this paragraph and in the written agreement by the
463 recipient of the certificate of need. The provision of Section
464 43-7-193(1) regarding substantial compliance of the projection of
465 need as reported in the current State Health Plan is waived for
466 the purposes of this paragraph. If the certificate of need
467 authorized under this paragraph is not issued within twelve (12)
468 months after July 1, 1998, the department shall deny the
469 application for the certificate of need and shall not issue the
470 certificate of need at any time after the twelve-month period,
471 unless the issuance is contested. If the certificate of need is
472 issued and substantial construction of the nursing facility beds
473 has not commenced within eighteen (18) months after July 1, 1998,
474 the State Department of Health, after a hearing complying with due
475 process, shall revoke the certificate of need if it is still
476 outstanding, and the department shall not issue a license for the
477 nursing facility at any time after the eighteen-month period.
478 Provided, however, that if the issuance of the certificate of need
479 is contested, the department shall require substantial
480 construction of the nursing facility beds within six (6) months
481 after final adjudication on the issuance of the certificate of
482 need.

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

493 (ii) Subject to the provisions of subparagraph
494 (v), during each of the next four (4) fiscal years, the department
495 shall issue six (6) certificates of need for new nursing facility
496 beds, as follows: During fiscal years 2000, 2001 and 2002, one
497 (1) certificate of need shall be issued for new nursing facility
498 beds in the county in each of the four (4) Long-Term Care Planning
499 Districts designated in the fiscal year 1999 State Health Plan
500 that has the highest need in the district for those beds; and two
501 (2) certificates of need shall be issued for new nursing facility
502 beds in the two (2) counties from the state at large that have the
503 highest need in the state for those beds, when considering the
504 need on a statewide basis and without regard to the Long-Term Care
505 Planning Districts in which the counties are located. During
506 fiscal year 2003, one (1) certificate of need shall be issued for
507 new nursing facility beds in any county having a need for fifty
508 (50) or more additional nursing facility beds, as shown in the
509 fiscal year 1999 State Health Plan, that has not received a
510 certificate of need under this paragraph (q) during the three (3)
511 previous fiscal years. During fiscal year 2000, in addition to
512 the six (6) certificates of need authorized in this subparagraph,
513 the department also shall issue a certificate of need for new
514 nursing facility beds in Amite County and a certificate of need
515 for new nursing facility beds in Carroll County.

516 (iii) Subject to the provisions of subparagraph
517 (v), the certificate of need issued under subparagraph (ii) for
518 nursing facility beds in each Long-Term Care Planning District
519 during each fiscal year shall first be available for nursing
520 facility beds in the county in the district having the highest
521 need for those beds, as shown in the fiscal year 1999 State Health
522 Plan. If there are no applications for a certificate of need for
523 nursing facility beds in the county having the highest need for
524 those beds by the date specified by the department, then the
525 certificate of need shall be available for nursing facility beds

526 in other counties in the district in descending order of the need
527 for those beds, from the county with the second highest need to
528 the county with the lowest need, until an application is received
529 for nursing facility beds in an eligible county in the district.

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

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

559 any fiscal year of the four-year period, a certificate of need
560 shall not be available again under this paragraph (q) for
561 additional nursing facility beds in that county during the
562 four-year period, and that county shall be excluded in determining
563 which counties have the highest need for nursing facility beds in
564 succeeding fiscal years.

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

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

589 (iii) The State Department of Health, in
590 consultation with the Department of Mental Health and the Division
591 of Medicaid, shall develop and prescribe the staffing levels,

592 space requirements and other standards and requirements that must
593 be met with regard to the nursing facility beds authorized under
594 this paragraph (r) to provide care exclusively to patients with
595 Alzheimer's disease.

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

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

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

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

650 (c) Of the total number of beds authorized under this
651 subsection, the department shall issue a certificate of need to a
652 hospital currently operating Medicaid-certified acute psychiatric
653 beds for adolescents in DeSoto County, for the establishment of a
654 forty-bed psychiatric residential treatment facility in DeSoto
655 County, provided that the hospital agrees in writing (i) that the
656 hospital shall give priority for the use of those forty (40) beds
657 to Mississippi residents who are presently being treated in

658 out-of-state facilities, and (ii) that no more than fifteen (15)
659 of the beds at the psychiatric residential treatment facility will
660 be certified for participation in the Medicaid program (Section
661 43-13-101 et seq.), and that no claim will be submitted for
662 Medicaid reimbursement for more than fifteen (15) patients in the
663 psychiatric residential treatment facility in any day or for any
664 patient in the psychiatric residential treatment facility who is
665 in a bed that is not Medicaid-certified. This written agreement
666 by the recipient of the certificate of need shall be a condition
667 of the issuance of the certificate of need under this paragraph,
668 and the agreement shall be fully binding on any subsequent owner
669 of the psychiatric residential treatment facility if the ownership
670 of the facility is transferred at any time after the issuance of
671 the certificate of need. After this written agreement is
672 executed, the Division of Medicaid and the State Department of
673 Health shall not certify more than fifteen (15) of the beds in the
674 psychiatric residential treatment facility for participation in
675 the Medicaid program. If the psychiatric residential treatment
676 facility violates the terms of the written agreement by admitting
677 or keeping in the facility on a regular or continuing basis more
678 than fifteen (15) patients who are participating in the Medicaid
679 program, the State Department of Health shall revoke the license
680 of the facility, at the time that the department determines, after
681 a hearing complying with due process, that the facility has
682 violated the condition upon which the certificate of need was
683 issued, as provided in this paragraph and in the written
684 agreement.

685 (d) Of the total number of beds authorized under this
686 subsection, the department may issue a certificate or certificates
687 of need for the construction or expansion of psychiatric
688 residential treatment facility beds or the conversion of other
689 beds to psychiatric treatment facility beds, not to exceed thirty
690 (30) psychiatric residential treatment facility beds, in either

691 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
692 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

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

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

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

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

752 (ii) The department may issue a certificate of
753 need for the conversion of existing beds in a county hospital in
754 Choctaw County from acute care beds to child/adolescent chemical
755 dependency beds. For purposes of this subparagraph, the
756 provisions of Section 41-7-193(1) requiring substantial compliance

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

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

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

790 43-13-101 et seq.) for the person receiving the certificate of
791 need authorized under this subparagraph (a)(iv) or for the beds
792 converted pursuant to the authority of that certificate of need.

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

821 (vi) The department may issue a certificate or
822 certificates of need for the expansion of child psychiatric beds

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

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

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

845 (6) The State Department of Health shall issue a certificate
846 of need to a Mississippi corporation qualified to manage a
847 long-term care hospital as defined in Section 41-7-173(h)(xii) in
848 Harrison County, not to exceed eighty (80) beds, including any
849 necessary renovation or construction required for licensure and
850 certification, provided that the recipient of the certificate of
851 need agrees in writing that the long-term care hospital will not
852 at any time participate in the Medicaid program (Section 43-13-101
853 et seq.) or admit or keep any patients in the long-term care
854 hospital who are participating in the Medicaid program. This
855 written agreement by the recipient of the certificate of need

856 shall be fully binding on any subsequent owner of the long-term
857 care hospital, if the ownership of the facility is transferred at
858 any time after the issuance of the certificate of need. Agreement
859 that the long-term care hospital will not participate in the
860 Medicaid program shall be a condition of the issuance of a
861 certificate of need to any person under this subsection (6), and
862 if such long-term care hospital at any time after the issuance of
863 the certificate of need, regardless of the ownership of the
864 facility, participates in the Medicaid program or admits or keeps
865 any patients in the facility who are participating in the Medicaid
866 program, the State Department of Health shall revoke the
867 certificate of need, if it is still outstanding, and shall deny or
868 revoke the license of the long-term care hospital, at the time
869 that the department determines, after a hearing complying with due
870 process, that the facility has failed to comply with any of the
871 conditions upon which the certificate of need was issued, as
872 provided in this subsection and in the written agreement by the
873 recipient of the certificate of need. For purposes of this
874 subsection, the provision of Section 41-7-193(1) requiring
875 substantial compliance with the projection of need as reported in
876 the current State Health Plan is hereby waived.

877 (7) The State Department of Health may issue a certificate
878 of need to any hospital in the state to utilize a portion of its
879 beds for the "swing-bed" concept. Any such hospital must be in
880 conformance with the federal regulations regarding such swing-bed
881 concept at the time it submits its application for a certificate
882 of need to the State Department of Health, except that such
883 hospital may have more licensed beds or a higher average daily
884 census (ADC) than the maximum number specified in federal
885 regulations for participation in the swing-bed program. Any
886 hospital meeting all federal requirements for participation in the
887 swing-bed program which receives such certificate of need shall
888 render services provided under the swing-bed concept to any

889 patient eligible for Medicare (Title XVIII of the Social Security
890 Act) who is certified by a physician to be in need of such
891 services, and no such hospital shall permit any patient who is
892 eligible for both Medicaid and Medicare or eligible only for
893 Medicaid to stay in the swing beds of the hospital for more than
894 thirty (30) days per admission unless the hospital receives prior
895 approval for such patient from the Division of Medicaid, Office of
896 the Governor. Any hospital having more licensed beds or a higher
897 average daily census (ADC) than the maximum number specified in
898 federal regulations for participation in the swing-bed program
899 which receives such certificate of need shall develop a procedure
900 to insure that before a patient is allowed to stay in the swing
901 beds of the hospital, there are no vacant nursing home beds
902 available for that patient located within a fifty-mile radius of
903 the hospital. When any such hospital has a patient staying in the
904 swing beds of the hospital and the hospital receives notice from a
905 nursing home located within such radius that there is a vacant bed
906 available for that patient, the hospital shall transfer the
907 patient to the nursing home within a reasonable time after receipt
908 of the notice. Any hospital which is subject to the requirements
909 of the two (2) preceding sentences of this subsection may be
910 suspended from participation in the swing-bed program for a
911 reasonable period of time by the State Department of Health if the
912 department, after a hearing complying with due process, determines
913 that the hospital has failed to comply with any of those
914 requirements.

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

919 (9) The Department of Health shall not grant approval for or
920 issue a certificate of need to any person proposing the
921 establishment of, or expansion of the currently approved territory

922 of, or the contracting to establish a home office, subunit or
923 branch office within the space operated as a health care facility
924 as defined in Section 41-7-173(h)(i) through (viii) by a health
925 care facility as defined in subparagraph (ix) of Section
926 41-7-173(h).

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

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

953 (12) The new construction, renovation or expansion of or
954 addition to any veterans homes or domiciliaries for eligible

955 veterans of the State of Mississippi as authorized under Section
956 35-1-19 shall not require the issuance of a certificate of need,
957 notwithstanding any provision in Section 41-7-171 et seq. to the
958 contrary.

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

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

988 submitting any claim for Medicaid reimbursement for any patient in
989 the facility, the State Department of Health shall revoke the
990 license of the nursing facility at the time that the department
991 determines, after a hearing complying with due process, that the
992 facility has violated the terms of the written agreement.

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

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

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

1018 (14) A nursing facility may construct new nursing facility
1019 beds or convert other beds to nursing facility beds without the
1020 issuance of a certificate of need, notwithstanding any provision

1021 in Section 41-7-171 et seq. to the contrary, if all of the
1022 conditions of this subsection are met.

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

1025 (b) Before a nursing facility may add any new nursing
1026 facility beds under this subsection, the owner of the facility
1027 shall first file a written notice of intent with the State
1028 Department of Health that the facility intends to add new nursing
1029 facility beds under this subsection. The facility shall include
1030 in the notice of intent the number of new nursing facility beds
1031 that it intends to add, and the time period within which the new
1032 beds will be operational.

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

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

1052 (e) For any new nursing facility beds added under this
1053 subsection that are to be constructed, the nursing facility must

1054 begin substantial construction of the beds within eighteen (18)
1055 months after the date on which the facility files the notice of
1056 intent with the department. If substantial construction of the
1057 new beds is not begun within the eighteen-month period, the
1058 department shall not issue a license for the new beds at any time
1059 after the eighteen-month period.

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

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

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

1084 SECTION 2. This act shall take effect and be in force from
1085 and after July 1, 2001.