

By: Senator(s) Huggins

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2251

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; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the  
9 following activities without obtaining the required certificate of  
10 need:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

691 (f) The department shall issue a certificate of need to  
692 a 134-bed specialty hospital located on 29.44 commercial acres at  
693 5900 Highway 39 North in Meridian (Lauderdale County),  
694 Mississippi, for the addition, construction or expansion of  
695 child/adolescent psychiatric residential beds in Lauderdale  
696 County. For purposes of this paragraph, the provisions of Section  
697 41-7-193(1) requiring substantial compliance with the projection  
698 of need as reported in the current State Health Plan are waived.  
699 The total number of child/adolescent psychiatric residential beds  
700 that may be authorized under the authority of this paragraph shall  
701 be sixty (60) beds. There shall be no prohibition or restrictions  
702 on participation in the Medicaid program (Section 43-13-101 et  
703 seq.) for the person receiving the certificate of need authorized  
704 under this paragraph or for the beds converted pursuant to the  
705 authority of that certificate of need.

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

720 child/adolescent chemical dependency beds, except as hereinafter  
721 authorized:

722 (i) The department may issue certificates of need  
723 to any person for any purpose described in this subsection,  
724 provided that the hospital, psychiatric hospital or chemical  
725 dependency hospital does not participate in the Medicaid program  
726 (Section 43-13-101 et seq.) at the time of the application for the  
727 certificate of need and the owner of the hospital, psychiatric  
728 hospital or chemical dependency hospital agrees in writing that  
729 the hospital, psychiatric hospital or chemical dependency hospital  
730 will not at any time participate in the Medicaid program or admit  
731 or keep any patients who are participating in the Medicaid program  
732 in the hospital, psychiatric hospital or chemical dependency  
733 hospital. This written agreement by the recipient of the  
734 certificate of need shall be fully binding on any subsequent owner  
735 of the hospital, psychiatric hospital or chemical dependency  
736 hospital, if the ownership of the facility is transferred at any  
737 time after the issuance of the certificate of need. Agreement  
738 that the hospital, psychiatric hospital or chemical dependency  
739 hospital will not participate in the Medicaid program shall be a  
740 condition of the issuance of a certificate of need to any person  
741 under this subparagraph (a)(i), and if such hospital, psychiatric  
742 hospital or chemical dependency hospital at any time after the  
743 issuance of the certificate of need, regardless of the ownership  
744 of the facility, participates in the Medicaid program or admits or  
745 keeps any patients in the hospital, psychiatric hospital or  
746 chemical dependency hospital who are participating in the Medicaid  
747 program, the State Department of Health shall revoke the  
748 certificate of need, if it is still outstanding, and shall deny or  
749 revoke the license of the hospital, psychiatric hospital or  
750 chemical dependency hospital, at the time that the department  
751 determines, after a hearing complying with due process, that the  
752 hospital, psychiatric hospital or chemical dependency hospital has

753 failed to comply with any of the conditions upon which the  
754 certificate of need was issued, as provided in this subparagraph  
755 and in the written agreement by the recipient of the certificate  
756 of need.

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

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

784           (iv) The department shall issue a certificate of  
785 need to the Region 7 Mental Health/Retardation Commission for the



786 construction or expansion of child/adolescent psychiatric beds or  
787 the conversion of other beds to child/adolescent psychiatric beds  
788 in any of the counties served by the commission. For purposes of  
789 this subparagraph, the provisions of Section 41-7-193(1) requiring  
790 substantial compliance with the projection of need as reported in  
791 the current State Health Plan is waived. The total number of beds  
792 that may be authorized under the authority of this subparagraph  
793 shall not exceed twenty (20) beds. There shall be no prohibition  
794 or restrictions on participation in the Medicaid program (Section  
795 43-13-101 et seq.) for the person receiving the certificate of  
796 need authorized under this subparagraph (a)(iv) or for the beds  
797 converted pursuant to the authority of that certificate of need.

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

819 Department of Health shall revoke the certificate of need, if it  
820 is still outstanding, and shall deny or revoke the license of the  
821 hospital at the time that the department determines, after a  
822 hearing complying with due process, that the hospital has failed  
823 to comply with any of the conditions upon which the certificate of  
824 need was issued, as provided in this subparagraph and in the  
825 written agreement by the recipient of the certificate of need.

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

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

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

850           (6) The State Department of Health shall issue a certificate  
851 of need to a Mississippi corporation qualified to manage a

852 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
853 Harrison County, not to exceed eighty (80) beds, including any  
854 necessary renovation or construction required for licensure and  
855 certification, provided that the recipient of the certificate of  
856 need agrees in writing that the long-term care hospital will not  
857 at any time participate in the Medicaid program (Section 43-13-101  
858 et seq.) or admit or keep any patients in the long-term care  
859 hospital who are participating in the Medicaid program. This  
860 written agreement by the recipient of the certificate of need  
861 shall be fully binding on any subsequent owner of the long-term  
862 care hospital, if the ownership of the facility is transferred at  
863 any time after the issuance of the certificate of need. Agreement  
864 that the long-term care hospital will not participate in the  
865 Medicaid program shall be a condition of the issuance of a  
866 certificate of need to any person under this subsection (6), and  
867 if such long-term care hospital at any time after the issuance of  
868 the certificate of need, regardless of the ownership of the  
869 facility, participates in the Medicaid program or admits or keeps  
870 any patients in the facility who are participating in the Medicaid  
871 program, the State Department of Health shall revoke the  
872 certificate of need, if it is still outstanding, and shall deny or  
873 revoke the license of the long-term care hospital, at the time  
874 that the department determines, after a hearing complying with due  
875 process, that the facility has failed to comply with any of the  
876 conditions upon which the certificate of need was issued, as  
877 provided in this subsection and in the written agreement by the  
878 recipient of the certificate of need. For purposes of this  
879 subsection, the provision of Section 41-7-193(1) requiring  
880 substantial compliance with the projection of need as reported in  
881 the current State Health Plan is hereby waived.

882 (7) The State Department of Health may issue a certificate  
883 of need to any hospital in the state to utilize a portion of its  
884 beds for the "swing-bed" concept. Any such hospital must be in

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

918 that the hospital has failed to comply with any of those  
919 requirements.

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

924 (9) The Department of Health shall not grant approval for or  
925 issue a certificate of need to any person proposing the  
926 establishment of, or expansion of the currently approved territory  
927 of, or the contracting to establish a home office, subunit or  
928 branch office within the space operated as a health care facility  
929 as defined in Section 41-7-173(h)(i) through (viii) by a health  
930 care facility as defined in subparagraph (ix) of Section  
931 41-7-173(h).

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

942 (11) The new construction, renovation or expansion of or  
943 addition to any health care facility defined in subparagraph (ii)  
944 (psychiatric hospital), subparagraph (iv) (skilled nursing  
945 facility), subparagraph (vi) (intermediate care facility),  
946 subparagraph (viii) (intermediate care facility for the mentally  
947 retarded) and subparagraph (x) (psychiatric residential treatment  
948 facility) of Section 41-7-173(h) which is owned by the State of  
949 Mississippi and under the direction and control of the State  
950 Department of Mental Health, and the addition of new beds or the

951 conversion of beds from one category to another in any such  
952 defined health care facility which is owned by the State of  
953 Mississippi and under the direction and control of the State  
954 Department of Mental Health, shall not require the issuance of a  
955 certificate of need under Section 41-7-171 et seq.,  
956 notwithstanding any provision in Section 41-7-171 et seq. to the  
957 contrary.

958 (12) The new construction, renovation or expansion of or  
959 addition to any veterans homes or domiciliaries for eligible  
960 veterans of the State of Mississippi as authorized under Section  
961 35-1-19 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.

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

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

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

998 (b) For the purposes of this subsection, participation  
999 in the Medicaid program by a nursing facility includes Medicaid  
1000 reimbursement of coinsurance and deductibles for recipients who  
1001 are qualified Medicare beneficiaries and/or those who are dually  
1002 eligible. Any nursing facility exercising the authority under  
1003 this subsection may not bill or submit a claim to the Division of  
1004 Medicaid for services to qualified Medicare beneficiaries and/or  
1005 those who are dually eligible.

1006 (c) The new construction of a nursing facility or  
1007 nursing facility beds or the conversion of other beds to nursing  
1008 facility beds described in this section must be either a part of a  
1009 completely new continuing care retirement community, as described  
1010 in the latest edition of the Mississippi State Health Plan, or an  
1011 addition to existing personal care and independent living  
1012 components, and so that the completed project will be a continuing  
1013 care retirement community, containing (i) independent living  
1014 accommodations, (ii) personal care beds, and (iii) the nursing  
1015 home facility beds. The three (3) components must be located on a  
1016 single site and be operated as one (1) inseparable facility. The

1017 nursing facility component must contain a minimum of thirty (30)  
1018 beds. Any nursing facility beds authorized by this section will  
1019 not be counted against the bed need set forth in the State Health  
1020 Plan, as identified in Section 41-7-171, et seq.

1021 This subsection (13) shall stand repealed from and after July  
1022 1, 2001.

1023 (14) The State Department of Health shall issue a  
1024 certificate of need to any hospital which is currently licensed  
1025 for two hundred fifty (250) or more acute care beds and is located  
1026 in any general hospital service area not having a comprehensive  
1027 cancer center, for the establishment and equipping of such a  
1028 center which provides facilities and services for outpatient  
1029 radiation oncology therapy, outpatient medical oncology therapy,  
1030 and appropriate support services including the provision of  
1031 radiation therapy services. The provision of Section 41-7-193(1)  
1032 regarding substantial compliance with the projection of need as  
1033 reported in the current State Health Plan is waived for the  
1034 purpose of this subsection.

1035 (15) Nothing in this section or in any other provision of  
1036 Section 41-7-171 et seq. shall prevent any nursing facility from  
1037 designating an appropriate number of existing beds in the facility  
1038 as beds for providing care exclusively to patients with  
1039 Alzheimer's disease.

1040 SECTION 2. This act shall take effect and be in force from  
1041 and after its passage.