

By: Senator(s) Huggins

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2251  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR ADDITIONAL  
3 ADOLESCENT PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN  
4 LAUDERDALE COUNTY; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO  
5 TRANSFER A CERTAIN CERTIFICATE OF NEED AUTHORIZING PSYCHIATRIC  
6 RESIDENTIAL TREATMENT FACILITY BEDS IN WARREN COUNTY; TO PROVIDE  
7 THAT CERTAIN COUNTY-OWNED HOSPITALS SHALL HAVE PRIORITY IN  
8 APPLYING FOR CERTIFICATES OF NEED FOR NURSING FACILITY BEDS; AND  
9 FOR RELATED PURPOSES.

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

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

13 41-7-191. (1) No person shall engage in any of the  
14 following activities without obtaining the required certificate of  
15 need:

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

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

25 (c) A change over a period of two (2) years' time, as  
26 established by the State Department of Health, in existing bed  
27 complement through the addition of more than ten (10) beds or more  
28 than ten percent (10%) of the total bed capacity of a designated  
29 licensed category or subcategory of any health care facility,

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

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

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

63 (xiii) Extracorporeal shock wave lithotripsy  
64 services;

65 (xiv) Long-term care hospital services;

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

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

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

90 (g) Changes of ownership of existing health care  
91 facilities in which a notice of intent is not filed with the State  
92 Department of Health at least thirty (30) days prior to the date  
93 such change of ownership occurs, or a change in services or bed  
94 capacity as prescribed in paragraph (c) or (d) of this subsection  
95 as a result of the change of ownership; an acquisition for less

96 than fair market value must be reviewed, if the acquisition at  
97 fair market value would be subject to review;

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

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

110 (j) Any capital expenditure or deferred capital  
111 expenditure by or on behalf of a health care facility not covered  
112 by paragraphs (a) through (h);

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

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

126 (a) The department may issue a certificate of need to  
127 any person proposing the new construction of any health care  
128 facility defined in subparagraphs (iv) and (vi) of Section

129 41-7-173(h) as part of a life care retirement facility, in any  
130 county bordering on the Gulf of Mexico in which is located a  
131 National Aeronautics and Space Administration facility, not to  
132 exceed forty (40) beds. From and after July 1, 1999, there shall  
133 be no prohibition or restrictions on participation in the Medicaid  
134 program (Section 43-13-101 et seq.) for the beds in the health  
135 care facility that were authorized under this paragraph (a).

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

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

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

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

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

189 (f) The State Department of Health may issue a  
190 certificate of need for conversion of a county hospital facility  
191 in Itawamba County to a nursing facility, not to exceed sixty (60)  
192 beds, including any necessary construction, renovation or  
193 expansion. From and after July 1, 1999, there shall be no  
194 prohibition or restrictions on participation in the Medicaid

195 program (Section 43-13-101 et seq.) for the beds in the nursing  
196 facility that were authorized under this paragraph (f).

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

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

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

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

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



261 for the beds in the long-term care facilities that were authorized  
262 under this paragraph (j).

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

291           (l) Provided that funds are specifically appropriated  
292 therefor by the Legislature, the department may issue a  
293 certificate of need to a rehabilitation hospital in Hinds County

294 for the construction of a sixty-bed long-term care nursing  
295 facility dedicated to the care and treatment of persons with  
296 severe disabilities including persons with spinal cord and  
297 closed-head injuries and ventilator-dependent patients. The  
298 provision of Section 41-7-193(1) regarding substantial compliance  
299 with projection of need as reported in the current State Health  
300 Plan is hereby waived for the purpose of this paragraph.

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

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

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

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

388 (o) The department may issue a certificate of need for  
389 the new construction, addition or conversion of skilled nursing  
390 facility beds in Leake County, provided that the recipient of the  
391 certificate of need agrees in writing that the skilled nursing  
392 facility will not at any time participate in the Medicaid program

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

426 and the department shall not issue a license for the nursing  
427 facility at any time after the eighteen-month period. Provided,  
428 however, that if the issuance of the certificate of need is  
429 contested, the department shall require substantial construction  
430 of the nursing facility beds within six (6) months after final  
431 adjudication on the issuance of the certificate of need.

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

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

459 43-7-193(1) regarding substantial compliance of the projection of  
460 need as reported in the current State Health Plan is waived for  
461 the purposes of this paragraph. If the certificate of need  
462 authorized under this paragraph is not issued within twelve (12)  
463 months after July 1, 1998, the department shall deny the  
464 application for the certificate of need and shall not issue the  
465 certificate of need at any time after the twelve-month period,  
466 unless the issuance is contested. If the certificate of need is  
467 issued and substantial construction of the nursing facility beds  
468 has not commenced within eighteen (18) months after July 1, 1998,  
469 the State Department of Health, after a hearing complying with due  
470 process, shall revoke the certificate of need if it is still  
471 outstanding, and the department shall not issue a license for the  
472 nursing facility at any time after the eighteen-month period.  
473 Provided, however, that if the issuance of the certificate of need  
474 is contested, the department shall require substantial  
475 construction of the nursing facility beds within six (6) months  
476 after final adjudication on the issuance of the certificate of  
477 need.

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

488 (ii) Subject to the provisions of subparagraph  
489 (v), during each of the next four (4) fiscal years, the department  
490 shall issue six (6) certificates of need for new nursing facility  
491 beds, as follows: During fiscal years 2000, 2001 and 2002, one

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

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



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

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

558 which counties have the highest need for nursing facility beds in  
559 succeeding fiscal years.

560 (vi) If more than one (1) application is made for  
561 a certificate of need for nursing home facility beds available  
562 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
563 county, and one (1) of the applicants is a county-owned hospital,  
564 the department shall give priority to the county-owned hospital in  
565 granting the certificate of need.

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

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

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

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

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

614 (b) Of the total number of beds authorized under this  
615 subsection, the department may issue a certificate or certificates  
616 of need for the construction or expansion of psychiatric  
617 residential treatment facility beds or the conversion of other  
618 beds to psychiatric residential treatment facility beds in Warren  
619 County, not to exceed sixty (60) psychiatric residential treatment  
620 facility beds, provided that the facility agrees in writing that  
621 no more than thirty (30) of the beds at the psychiatric  
622 residential treatment facility will be certified for participation

623 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
624 any patients other than those who are participating only in the  
625 Medicaid program of another state, and that no claim will be  
626 submitted to the Division of Medicaid for Medicaid reimbursement  
627 for more than thirty (30) patients in the psychiatric residential  
628 treatment facility in any day or for any patient in the  
629 psychiatric residential treatment facility who is in a bed that is  
630 not Medicaid-certified. This written agreement by the recipient  
631 of the certificate of need shall be a condition of the issuance of  
632 the certificate of need under this paragraph, and the agreement  
633 shall be fully binding on any subsequent owner of the psychiatric  
634 residential treatment facility if the ownership of the facility is  
635 transferred at any time after the issuance of the certificate of  
636 need. After this written agreement is executed, the Division of  
637 Medicaid and the State Department of Health shall not certify more  
638 than thirty (30) of the beds in the psychiatric residential  
639 treatment facility for participation in the Medicaid program for  
640 the use of any patients other than those who are participating  
641 only in the Medicaid program of another state. If the psychiatric  
642 residential treatment facility violates the terms of the written  
643 agreement by admitting or keeping in the facility on a regular or  
644 continuing basis more than thirty (30) patients who are  
645 participating in the Mississippi Medicaid program, the State  
646 Department of Health shall revoke the license of the facility, at  
647 the time that the department determines, after a hearing complying  
648 with due process, that the facility has violated the condition  
649 upon which the certificate of need was issued, as provided in this  
650 paragraph and in the written agreement.

651 The State Department of Health, on or before July 1, 2001,  
652 shall transfer the certificate of need authorized under the  
653 authority of this paragraph (b) to River Region Health System.

654 (c) Of the total number of beds authorized under this  
655 subsection, the department shall issue a certificate of need to a

656 hospital currently operating Medicaid-certified acute psychiatric  
657 beds for adolescents in DeSoto County, for the establishment of a  
658 forty-bed psychiatric residential treatment facility in DeSoto  
659 County, provided that the hospital agrees in writing (i) that the  
660 hospital shall give priority for the use of those forty (40) beds  
661 to Mississippi residents who are presently being treated in  
662 out-of-state facilities, and (ii) that no more than fifteen (15)  
663 of the beds at the psychiatric residential treatment facility will  
664 be certified for participation in the Medicaid program (Section  
665 43-13-101 et seq.), and that no claim will be submitted for  
666 Medicaid reimbursement for more than fifteen (15) patients in the  
667 psychiatric residential treatment facility in any day or for any  
668 patient in the psychiatric residential treatment facility who is  
669 in a bed that is not Medicaid-certified. This written agreement  
670 by the recipient of the certificate of need shall be a condition  
671 of the issuance of the certificate of need under this paragraph,  
672 and the agreement shall be fully binding on any subsequent owner  
673 of the psychiatric residential treatment facility if the ownership  
674 of the facility is transferred at any time after the issuance of  
675 the certificate of need. After this written agreement is  
676 executed, the Division of Medicaid and the State Department of  
677 Health shall not certify more than fifteen (15) of the beds in the  
678 psychiatric residential treatment facility for participation in  
679 the Medicaid program. If the psychiatric residential treatment  
680 facility violates the terms of the written agreement by admitting  
681 or keeping in the facility on a regular or continuing basis more  
682 than fifteen (15) patients who are participating in the Medicaid  
683 program, the State Department of Health shall revoke the license  
684 of the facility, at the time that the department determines, after  
685 a hearing complying with due process, that the facility has  
686 violated the condition upon which the certificate of need was  
687 issued, as provided in this paragraph and in the written  
688 agreement.

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

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

705           (f) The department shall issue a certificate of need to  
706 a 134-bed specialty hospital located on 29.44 commercial acres at  
707 5900 Highway 39 North in Meridian (Lauderdale County),  
708 Mississippi, for the addition, construction or expansion of  
709 child/adolescent psychiatric residential beds in Lauderdale  
710 County. For purposes of this paragraph, the provisions of Section  
711 41-7-193(1) requiring substantial compliance with the projection  
712 of need as reported in the current State Health Plan are waived.  
713 The total number of child/adolescent psychiatric residential beds  
714 that may be authorized under the authority of this paragraph shall  
715 be sixty (60) beds. There shall be no prohibition or restrictions  
716 on participation in the Medicaid program (Section 43-13-101 et  
717 seq.) for the person receiving the certificate of need authorized  
718 under this paragraph or for the beds converted pursuant to the  
719 authority of that certificate of need.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

1054 SECTION 2. This act shall take effect and be in force from  
1055 and after its passage.