

By: Flaggs

To: Public Health and  
Welfare;  
Appropriations

HOUSE BILL NO. 778

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL AMEND THE  
3 CONDITIONS UPON WHICH A CERTIFICATE OF NEED WAS ISSUED FOR  
4 CONSTRUCTION OF A REPLACEMENT NURSING FACILITY IN THE CITY OF  
5 VICKSBURG TO PROVIDE THAT 15 OF THE BEDS AT THE NURSING FACILITY  
6 MAY PARTICIPATE IN THE MEDICAID PROGRAM UNDER CERTAIN  
7 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 41-7-191, Mississippi Code of 1972, is  
10 amended as follows:[RF1]

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

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

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

23 (c) A change over a period of two (2) years' time, as

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

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

- 46 (i) Open heart surgery services;
- 47 (ii) Cardiac catheterization services;
- 48 (iii) Comprehensive inpatient rehabilitation  
49 services;
- 50 (iv) Licensed psychiatric services;
- 51 (v) Licensed chemical dependency services;
- 52 (vi) Radiation therapy services;
- 53 (vii) Diagnostic imaging services of an invasive  
54 nature, i.e. invasive digital angiography;

55                   (viii) Nursing home care as defined in  
56 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);  
57                   (ix) Home health services;  
58                   (x) Swing-bed services;  
59                   (xi) Ambulatory surgical services;  
60                   (xii) Magnetic resonance imaging services;  
61                   (xiii) Extracorporeal shock wave lithotripsy  
62 services;  
63                   (xiv) Long-term care hospital services;  
64                   (xv) Positron Emission Tomography (PET) Services;  
65           (e) The relocation of one or more health services from  
66 one physical facility or site to another physical facility or  
67 site, unless such relocation, which does not involve a capital  
68 expenditure by or on behalf of a health care facility, (i) is to a  
69 physical facility or site within one thousand three hundred twenty  
70 (1,320) feet from the main entrance of the health care facility  
71 where the health care service is located, or (ii) is the result of  
72 an order of a court of appropriate jurisdiction or a result of  
73 pending litigation in such court, or by order of the State  
74 Department of Health, or by order of any other agency or legal  
75 entity of the state, the federal government, or any political  
76 subdivision of either, whose order is also approved by the State  
77 Department of Health;  
78           (f) The acquisition or otherwise control of any major  
79 medical equipment for the provision of medical services; provided,  
80 however, (i) the acquisition of any major medical equipment used  
81 only for research purposes, and (ii) the acquisition of major  
82 medical equipment to replace medical equipment for which a

83 facility is already providing medical services and for which the  
84 State Department of Health has been notified before the date of  
85 such acquisition shall be exempt from this paragraph; an  
86 acquisition for less than fair market value must be reviewed, if  
87 the acquisition at fair market value would be subject to review;

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

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

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

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

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

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

124           (a) The department may issue a certificate of need to  
125 any person proposing the new construction of any health care  
126 facility defined in subparagraphs (iv) and (vi) of Section  
127 41-7-173(h) as part of a life care retirement facility, in any  
128 county bordering on the Gulf of Mexico in which is located a  
129 National Aeronautics and Space Administration facility, not to  
130 exceed forty (40) beds. From and after July 1, 1999, there shall  
131 be no prohibition or restrictions on participation in the Medicaid  
132 program (Section 43-13-101 et seq.) for the beds in the health  
133 care facility that were authorized under this paragraph (a).

134           (b) The department may issue certificates of need in  
135 Harrison County to provide skilled nursing home care for  
136 Alzheimer's Disease patients and other patients, not to exceed one  
137 hundred fifty (150) beds. From and after July 1, 1999, there  
138 shall be no prohibition or restrictions on participation in the

139 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
140 nursing facilities that were authorized under this paragraph (b).

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

167 by the recipient of the certificate of need. The total number of  
168 beds that may be authorized under the authority of this paragraph  
169 (c) shall not exceed sixty (60) beds.

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

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

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

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

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

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



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

250 (j) The department may issue certificates of need to

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

261 (k) The department may issue a certificate of need for  
262 the construction of a nursing facility at a continuing care  
263 retirement community in Lowndes County, provided that the  
264 recipient of the certificate of need agrees in writing that the  
265 nursing facility will not at any time participate in the Medicaid  
266 program (Section 43-13-101 et seq.) or admit or keep any patients  
267 in the nursing facility who are participating in the Medicaid  
268 program. This written agreement by the recipient of the  
269 certificate of need shall be fully binding on any subsequent owner  
270 of the nursing facility, if the ownership of the facility is  
271 transferred at any time after the issuance of the certificate of  
272 need. Agreement that the nursing facility will not participate in  
273 the Medicaid program shall be a condition of the issuance of a  
274 certificate of need to any person under this paragraph (k), and if  
275 such nursing facility at any time after the issuance of the  
276 certificate of need, regardless of the ownership of the facility,  
277 participates in the Medicaid program or admits or keeps any  
278 patients in the facility who are participating in the Medicaid

279 program, the State Department of Health shall revoke the  
280 certificate of need, if it is still outstanding, and shall deny or  
281 revoke the license of the nursing facility, at the time that the  
282 department determines, after a hearing complying with due process,  
283 that the facility has failed to comply with any of the conditions  
284 upon which the certificate of need was issued, as provided in this  
285 paragraph and in the written agreement by the recipient of the  
286 certificate of need. The total number of beds that may be  
287 authorized under the authority of this paragraph (k) shall not  
288 exceed sixty (60) beds.

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

299 (m) The State Department of Health may issue a  
300 certificate of need to a county-owned hospital in the Second  
301 Judicial District of Panola County for the conversion of not more  
302 than seventy-two (72) hospital beds to nursing facility beds,  
303 provided that the recipient of the certificate of need agrees in  
304 writing that none of the beds at the nursing facility will be  
305 certified for participation in the Medicaid program (Section  
306 43-13-101 et seq.), and that no claim will be submitted for

307 Medicaid reimbursement in the nursing facility in any day or for  
308 any patient in the nursing facility. This written agreement by  
309 the recipient of the certificate of need shall be a condition of  
310 the issuance of the certificate of need under this paragraph, and  
311 the agreement shall be fully binding on any subsequent owner of  
312 the nursing facility if the ownership of the nursing facility is  
313 transferred at any time after the issuance of the certificate of  
314 need. After this written agreement is executed, the Division of  
315 Medicaid and the State Department of Health shall not certify any  
316 of the beds in the nursing facility for participation in the  
317 Medicaid program. If the nursing facility violates the terms of  
318 the written agreement by admitting or keeping in the nursing  
319 facility on a regular or continuing basis any patients who are  
320 participating in the Medicaid program, the State Department of  
321 Health shall revoke the license of the nursing facility, at the  
322 time that the department determines, after a hearing complying  
323 with due process, that the nursing facility has violated the  
324 condition upon which the certificate of need was issued, as  
325 provided in this paragraph and in the written agreement. If the  
326 certificate of need authorized under this paragraph is not issued  
327 within twelve (12) months after July 1, 2001, the department shall  
328 deny the application for the certificate of need and shall not  
329 issue the certificate of need at any time after the twelve-month  
330 period, unless the issuance is contested. If the certificate of  
331 need is issued and substantial construction of the nursing  
332 facility beds has not commenced within eighteen (18) months after  
333 July 1, 2001, the State Department of Health, after a hearing  
334 complying with due process, shall revoke the certificate of need

335 if it is still outstanding, and the department shall not issue a  
336 license for the nursing facility at any time after the  
337 eighteen-month period. Provided, however, that if the issuance of  
338 the certificate of need is contested, the department shall require  
339 substantial construction of the nursing facility beds within six  
340 (6) months after final adjudication on the issuance of the  
341 certificate of need.

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

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

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

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

419 certificate of need is issued and substantial construction of the  
420 nursing facility beds has not commenced within eighteen (18)  
421 months after the effective date of July 1, 2001, the State  
422 Department of Health, after a hearing complying with due process,  
423 shall revoke the certificate of need if it is still outstanding,  
424 and the department shall not issue a license for the nursing  
425 facility at any time after the eighteen-month period. Provided,  
426 however, that if the issuance of the certificate of need is  
427 contested, the department shall require substantial construction  
428 of the nursing facility beds within six (6) months after final  
429 adjudication on the issuance of the certificate of need.

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

442 Agreement that the skilled nursing facility will not participate  
443 in the Medicaid program shall be a condition of the issuance of a  
444 certificate of need to any person under this paragraph (p), and if  
445 such skilled nursing facility at any time after the issuance of  
446 the certificate of need, regardless of the ownership of the



447 facility, participates in the Medicaid program or admits or keeps  
448 any patients in the facility who are participating in the Medicaid  
449 program, the State Department of Health shall revoke the  
450 certificate of need, if it is still outstanding, and shall deny or  
451 revoke the license of the skilled nursing facility, at the time  
452 that the department determines, after a hearing complying with due  
453 process, that the facility has failed to comply with any of the  
454 conditions upon which the certificate of need was issued, as  
455 provided in this paragraph and in the written agreement by the  
456 recipient of the certificate of need. The provision of Section  
457 43-7-193(1) regarding substantial compliance of the projection of  
458 need as reported in the current State Health Plan is waived for  
459 the purposes of this paragraph. If the certificate of need  
460 authorized under this paragraph is not issued within twelve (12)  
461 months after July 1, 1998, the department shall deny the  
462 application for the certificate of need and shall not issue the  
463 certificate of need at any time after the twelve-month period,  
464 unless the issuance is contested. If the certificate of need is  
465 issued and substantial construction of the nursing facility beds  
466 has not commenced within eighteen (18) months after July 1, 1998,  
467 the State Department of Health, after a hearing complying with due  
468 process, shall revoke the certificate of need if it is still  
469 outstanding, and the department shall not issue a license for the  
470 nursing facility at any time after the eighteen-month period.  
471 Provided, however, that if the issuance of the certificate of need  
472 is contested, the department shall require substantial  
473 construction of the nursing facility beds within six (6) months  
474 after final adjudication on the issuance of the certificate of

475 need.

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

486 (ii) Subject to the provisions of subparagraph  
487 (v), during each of the next four (4) fiscal years, the department  
488 shall issue six (6) certificates of need for new nursing facility  
489 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
490 (1) certificate of need shall be issued for new nursing facility  
491 beds in the county in each of the four (4) Long-Term Care Planning  
492 Districts designated in the fiscal year 1999 State Health Plan  
493 that has the highest need in the district for those beds; and two  
494 (2) certificates of need shall be issued for new nursing facility  
495 beds in the two (2) counties from the state at large that have the  
496 highest need in the state for those beds, when considering the  
497 need on a statewide basis and without regard to the Long-Term Care  
498 Planning Districts in which the counties are located. During  
499 fiscal year 2003, one (1) certificate of need shall be issued for  
500 new nursing facility beds in any county having a need for fifty  
501 (50) or more additional nursing facility beds, as shown in the  
502 fiscal year 1999 State Health Plan, that has not received a

503 certificate of need under this paragraph (q) during the three (3)  
504 previous fiscal years. During fiscal year 2000, in addition to  
505 the six (6) certificates of need authorized in this subparagraph,  
506 the department also shall issue a certificate of need for new  
507 nursing facility beds in Amite County and a certificate of need  
508 for new nursing facility beds in Carroll County.

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

523 (iv) Subject to the provisions of subparagraph  
524 (v), the certificate of need issued under subparagraph (ii) for  
525 nursing facility beds in the two (2) counties from the state at  
526 large during each fiscal year shall first be available for nursing  
527 facility beds in the two (2) counties that have the highest need  
528 in the state for those beds, as shown in the fiscal year 1999  
529 State Health Plan, when considering the need on a statewide basis  
530 and without regard to the Long-Term Care Planning Districts in

531 which the counties are located. If there are no applications for  
532 a certificate of need for nursing facility beds in either of the  
533 two (2) counties having the highest need for those beds on a  
534 statewide basis by the date specified by the department, then the  
535 certificate of need shall be available for nursing facility beds  
536 in other counties from the state at large in descending order of  
537 the need for those beds on a statewide basis, from the county with  
538 the second highest need to the county with the lowest need, until  
539 an application is received for nursing facility beds in an  
540 eligible county from the state at large.

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

558 (r) (i) Beginning on July 1, 1999, the State

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

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

582           (iii) The State Department of Health, in  
583 consultation with the Department of Mental Health and the Division  
584 of Medicaid, shall develop and prescribe the staffing levels,  
585 space requirements and other standards and requirements that must  
586 be met with regard to the nursing facility beds authorized under

587 this paragraph (r) to provide care exclusively to patients with  
588 Alzheimer's disease.

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

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

606 (b) Of the total number of beds authorized under this  
607 subsection, the department may issue a certificate or certificates  
608 of need for the construction or expansion of psychiatric  
609 residential treatment facility beds or the conversion of other  
610 beds to psychiatric residential treatment facility beds in Warren  
611 County, not to exceed sixty (60) psychiatric residential treatment  
612 facility beds, provided that the facility agrees in writing that  
613 no more than thirty (30) of the beds at the psychiatric  
614 residential treatment facility will be certified for participation

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

643           (c) Of the total number of beds authorized under this  
644 subsection, the department shall issue a certificate of need to a  
645 hospital currently operating Medicaid-certified acute psychiatric  
646 beds for adolescents in DeSoto County, for the establishment of a  
647 forty-bed psychiatric residential treatment facility in DeSoto  
648 County, provided that the hospital agrees in writing (i) that the  
649 hospital shall give priority for the use of those forty (40) beds  
650 to Mississippi residents who are presently being treated in  
651 out-of-state facilities, and (ii) that no more than fifteen (15)  
652 of the beds at the psychiatric residential treatment facility will  
653 be certified for participation in the Medicaid program (Section  
654 43-13-101 et seq.), and that no claim will be submitted for  
655 Medicaid reimbursement for more than fifteen (15) patients in the  
656 psychiatric residential treatment facility in any day or for any  
657 patient in the psychiatric residential treatment facility who is  
658 in a bed that is not Medicaid-certified. This written agreement  
659 by the recipient of the certificate of need shall be a condition  
660 of the issuance of the certificate of need under this paragraph,  
661 and the agreement shall be fully binding on any subsequent owner  
662 of the psychiatric residential treatment facility if the ownership  
663 of the facility is transferred at any time after the issuance of  
664 the certificate of need. After this written agreement is  
665 executed, the Division of Medicaid and the State Department of  
666 Health shall not certify more than fifteen (15) of the beds in the  
667 psychiatric residential treatment facility for participation in  
668 the Medicaid program. If the psychiatric residential treatment  
669 facility violates the terms of the written agreement by admitting  
670 or keeping in the facility on a regular or continuing basis more



671 than fifteen (15) patients who are participating in the Medicaid  
672 program, the State Department of Health shall revoke the license  
673 of the facility, at the time that the department determines, after  
674 a hearing complying with due process, that the facility has  
675 violated the condition upon which the certificate of need was  
676 issued, as provided in this paragraph and in the written  
677 agreement.

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

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

694 (4) (a) From and after July 1, 1993, the department shall  
695 not issue a certificate of need to any person for the new  
696 construction of any hospital, psychiatric hospital or chemical  
697 dependency hospital that will contain any child/adolescent  
698 psychiatric or child/adolescent chemical dependency beds, or for

699 the conversion of any other health care facility to a hospital,  
700 psychiatric hospital or chemical dependency hospital that will  
701 contain any child/adolescent psychiatric or child/adolescent  
702 chemical dependency beds, or for the addition of any  
703 child/adolescent psychiatric or child/adolescent chemical  
704 dependency beds in any hospital, psychiatric hospital or chemical  
705 dependency hospital, or for the conversion of any beds of another  
706 category in any hospital, psychiatric hospital or chemical  
707 dependency hospital to child/adolescent psychiatric or  
708 child/adolescent chemical dependency beds, except as hereinafter  
709 authorized:

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

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

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

755 seq.) for the hospital receiving the certificate of need  
756 authorized under this subparagraph (a)(ii) or for the beds  
757 converted pursuant to the authority of that certificate of need.

758 (iii) The department may issue a certificate or  
759 certificates of need for the construction or expansion of  
760 child/adolescent psychiatric beds or the conversion of other beds  
761 to child/adolescent psychiatric beds in Warren County. For  
762 purposes of this subparagraph, the provisions of Section  
763 41-7-193(1) requiring substantial compliance with the projection  
764 of need as reported in the current State Health Plan are waived.

765 The total number of beds that may be authorized under the  
766 authority of this subparagraph shall not exceed twenty (20) beds.

767 There shall be no prohibition or restrictions on participation in  
768 the Medicaid program (Section 43-13-101 et seq.) for the person  
769 receiving the certificate of need authorized under this  
770 subparagraph (a)(iii) or for the beds converted pursuant to the  
771 authority of that certificate of need.

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

783 43-13-101 et seq.) for the person receiving the certificate of  
784 need authorized under this subparagraph (a)(iv) or for the beds  
785 converted pursuant to the authority of that certificate of need.

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

811 to comply with any of the conditions upon which the certificate of  
812 need was issued, as provided in this subparagraph and in the  
813 written agreement by the recipient of the certificate of need.

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

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

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

838           (6) The State Department of Health shall issue a certificate

839 of need to a Mississippi corporation qualified to manage a  
840 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
841 Harrison County, not to exceed eighty (80) beds, including any  
842 necessary renovation or construction required for licensure and  
843 certification, provided that the recipient of the certificate of  
844 need agrees in writing that the long-term care hospital will not  
845 at any time participate in the Medicaid program (Section 43-13-101  
846 et seq.) or admit or keep any patients in the long-term care  
847 hospital who are participating in the Medicaid program. This  
848 written agreement by the recipient of the certificate of need  
849 shall be fully binding on any subsequent owner of the long-term  
850 care hospital, if the ownership of the facility is transferred at  
851 any time after the issuance of the certificate of need. Agreement  
852 that the long-term care hospital will not participate in the  
853 Medicaid program shall be a condition of the issuance of a  
854 certificate of need to any person under this subsection (6), and  
855 if such long-term care hospital at any time after the issuance of  
856 the certificate of need, regardless of the ownership of the  
857 facility, participates in the Medicaid program or admits or keeps  
858 any patients in the facility who are participating in the Medicaid  
859 program, the State Department of Health shall revoke the  
860 certificate of need, if it is still outstanding, and shall deny or  
861 revoke the license of the long-term care hospital, at the time  
862 that the department determines, after a hearing complying with due  
863 process, that the facility has failed to comply with any of the  
864 conditions upon which the certificate of need was issued, as  
865 provided in this subsection and in the written agreement by the  
866 recipient of the certificate of need. For purposes of this

867 subsection, the provision of Section 41-7-193(1) requiring  
868 substantial compliance with the projection of need as reported in  
869 the current State Health Plan is hereby waived.

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



895 available for that patient located within a fifty-mile radius of  
896 the hospital. When any such hospital has a patient staying in the  
897 swing beds of the hospital and the hospital receives notice from a  
898 nursing home located within such radius that there is a vacant bed  
899 available for that patient, the hospital shall transfer the  
900 patient to the nursing home within a reasonable time after receipt  
901 of the notice. Any hospital which is subject to the requirements  
902 of the two (2) preceding sentences of this subsection may be  
903 suspended from participation in the swing-bed program for a  
904 reasonable period of time by the State Department of Health if the  
905 department, after a hearing complying with due process, determines  
906 that the hospital has failed to comply with any of those  
907 requirements.

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

912 (9) The Department of Health shall not grant approval for or  
913 issue a certificate of need to any person proposing the  
914 establishment of, or expansion of the currently approved territory  
915 of, or the contracting to establish a home office, subunit or  
916 branch office within the space operated as a health care facility  
917 as defined in Section 41-7-173(h)(i) through (viii) by a health  
918 care facility as defined in subparagraph (ix) of Section  
919 41-7-173(h).

920 (10) Health care facilities owned and/or operated by the  
921 state or its agencies are exempt from the restraints in this  
922 section against issuance of a certificate of need if such addition

923 or expansion consists of repairing or renovation necessary to  
924 comply with the state licensure law. This exception shall not  
925 apply to the new construction of any building by such state  
926 facility. This exception shall not apply to any health care  
927 facilities owned and/or operated by counties, municipalities,  
928 districts, unincorporated areas, other defined persons, or any  
929 combination thereof.

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

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

951 contrary.

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

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

979 in the Medicaid program, admitting or keeping any patient in the  
980 facility who is participating in the Medicaid program, or  
981 submitting any claim for Medicaid reimbursement for any patient in  
982 the facility, the State Department of Health shall revoke the  
983 license of the nursing facility at the time that the department  
984 determines, after a hearing complying with due process, that the  
985 facility has violated the terms of the written agreement.

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

994 (c) The new construction of a nursing facility or  
995 nursing facility beds or the conversion of other beds to nursing  
996 facility beds described in this section must be either a part of a  
997 completely new continuing care retirement community, as described  
998 in the latest edition of the Mississippi State Health Plan, or an  
999 addition to existing personal care and independent living  
1000 components, and so that the completed project will be a continuing  
1001 care retirement community, containing (i) independent living  
1002 accommodations, (ii) personal care beds, and (iii) the nursing  
1003 home facility beds. The three (3) components must be located on a  
1004 single site and be operated as one (1) inseparable facility. The  
1005 nursing facility component must contain a minimum of thirty (30)  
1006 beds. Any nursing facility beds authorized by this section will

1007 not be counted against the bed need set forth in the State Health  
1008 Plan, as identified in Section 41-7-171, et seq.

1009 This subsection (13) shall stand repealed from and after July  
1010 1, 2001.

1011 (14) The State Department of Health shall issue a  
1012 certificate of need to any hospital which is currently licensed  
1013 for two hundred fifty (250) or more acute care beds and is located  
1014 in any general hospital service area not having a comprehensive  
1015 cancer center, for the establishment and equipping of such a  
1016 center which provides facilities and services for outpatient  
1017 radiation oncology therapy, outpatient medical oncology therapy,  
1018 and appropriate support services including the provision of  
1019 radiation therapy services. The provision of Section 41-7-193(1)  
1020 regarding substantial compliance with the projection of need as  
1021 reported in the current State Health Plan is waived for the  
1022 purpose of this subsection.

1023 (15) The State Department of Health shall amend the  
1024 conditions upon which the certificate of need was issued to the  
1025 River City Limited Partnership, d/b/a The Sydney House, on April  
1026 18, 1990, for construction of a sixty-bed replacement nursing  
1027 facility in the City of Vicksburg, as follows:

1028 The conditions that The Sydney House shall not participate in  
1029 the Medicaid program and that nonparticipation in the Medicaid  
1030 program shall be a written condition on the license shall be  
1031 modified to provide that fifteen (15) of the beds at the nursing  
1032 facility may be certified for participation in the Medicaid  
1033 program, provided that the owner of the nursing facility on July  
1034 1, 2000, agrees in writing that no more than fifteen (15) of the

1035 beds at the nursing facility will be certified for participation  
1036 in the Medicaid program, and that no claim will be submitted for  
1037 Medicaid reimbursement for more than fifteen (15) patients in the  
1038 nursing facility in any day or for any patient in the nursing  
1039 facility who is in a bed that is not Medicaid-certified. This  
1040 written agreement by the owner of the nursing facility on July 1,  
1041 2000, shall be fully binding on any subsequent owner of the  
1042 nursing facility if the ownership of the nursing facility is  
1043 transferred at any time after July 1, 2000. After this written  
1044 agreement is executed, the Division of Medicaid and the State  
1045 Department of Health shall not certify more than fifteen (15) of  
1046 the beds in the nursing facility for participation in the Medicaid  
1047 program. If the nursing facility violates the terms of the  
1048 written agreement by admitting or keeping in the nursing facility  
1049 on a regular or continuing basis more than fifteen (15) patients  
1050 who are participating in the Medicaid program, the State  
1051 Department of Health shall revoke the license of the nursing  
1052 facility, at the time that the department determines, after a  
1053 hearing complying with due process, that the nursing facility has  
1054 violated the terms of the written agreement as provided in this  
1055 subsection.

1056       (16) Nothing in this section or in any other provision of  
1057 Section 41-7-171 et seq. shall prevent any nursing facility from  
1058 designating an appropriate number of existing beds in the facility  
1059 as beds for providing care exclusively to patients with  
1060 Alzheimer's disease.

1061       SECTION 2. This act shall take effect and be in force from  
1062 and after July 1, 2000.