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To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1133

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ALL OF THE BEDS IN A PSYCHIATRIC RESIDENTIAL
3 TREATMENT FACILITY AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED
4 TO A HOSPITAL IN DESOTO COUNTY MAY PARTICIPATE IN MEDICAID; AND
5 FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

63 (e) The relocation of one or more health services from
64 one physical facility or site to another physical facility or

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

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

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

94 (h) The change of ownership of any health care facility
95 defined in subparagraphs (iv), (vi) and (viii) of Section
96 41-7-173(h), in which a notice of intent as described in paragraph
97 (g) has not been filed and if the Executive Director, Division of

98 Medicaid, Office of the Governor, has not certified in writing
99 that there will be no increase in allowable costs to Medicaid from
100 revaluation of the assets or from increased interest and
101 depreciation as a result of the proposed change of ownership;

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

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

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

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

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

131 care facility that were authorized under this paragraph (a).

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

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

164 issued, as provided in this paragraph and in the written agreement
165 by the recipient of the certificate of need. The total number of
166 beds that may be authorized under the authority of this paragraph
167 (c) shall not exceed sixty (60) beds.

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

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

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

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

197 sixty (60) beds. From and after July 1, 1999, there shall be no
198 prohibition or restrictions on participation in the Medicaid
199 program (Section 43-13-101 et seq.) for the beds in the nursing
200 facility that were authorized under this paragraph (g).

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

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

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

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

259 (k) The department may issue a certificate of need for
260 the construction of a nursing facility at a continuing care
261 retirement community in Lowndes County, provided that the
262 recipient of the certificate of need agrees in writing that the

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

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

296 Plan is hereby waived for the purpose of this paragraph.

297 (m) The State Department of Health may issue a
298 certificate of need to a county-owned hospital in the Second
299 Judicial District of Panola County for the conversion of not more
300 than seventy-two (72) hospital beds to nursing facility beds,
301 provided that the recipient of the certificate of need agrees in
302 writing that none of the beds at the nursing facility will be
303 certified for participation in the Medicaid program (Section
304 43-13-101 et seq.), and that no claim will be submitted for
305 Medicaid reimbursement in the nursing facility in any day or for
306 any patient in the nursing facility. This written agreement by
307 the recipient of the certificate of need shall be a condition of
308 the issuance of the certificate of need under this paragraph, and
309 the agreement shall be fully binding on any subsequent owner of
310 the nursing facility if the ownership of the nursing facility is
311 transferred at any time after the issuance of the certificate of
312 need. After this written agreement is executed, the Division of
313 Medicaid and the State Department of Health shall not certify any
314 of the beds in the nursing facility for participation in the
315 Medicaid program. If the nursing facility violates the terms of
316 the written agreement by admitting or keeping in the nursing
317 facility on a regular or continuing basis any patients who are
318 participating in the Medicaid program, the State Department of
319 Health shall revoke the license of the nursing facility, at the
320 time that the department determines, after a hearing complying
321 with due process, that the nursing facility has violated the
322 condition upon which the certificate of need was issued, as
323 provided in this paragraph and in the written agreement. If the
324 certificate of need authorized under this paragraph is not issued
325 within twelve (12) months after July 1, 2001, the department shall
326 deny the application for the certificate of need and shall not
327 issue the certificate of need at any time after the twelve-month
328 period, unless the issuance is contested. If the certificate of

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

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

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

384 (o) The department may issue a certificate of need for
385 the new construction, addition or conversion of skilled nursing
386 facility beds in Leake County, provided that the recipient of the
387 certificate of need agrees in writing that the skilled nursing
388 facility will not at any time participate in the Medicaid program
389 (Section 43-13-101 et seq.) or admit or keep any patients in the
390 skilled nursing facility who are participating in the Medicaid
391 program. This written agreement by the recipient of the
392 certificate of need shall be fully binding on any subsequent owner
393 of the skilled nursing facility, if the ownership of the facility
394 is transferred at any time after the issuance of the certificate

395 of need. Agreement that the skilled nursing facility will not
396 participate in the Medicaid program shall be a condition of the
397 issuance of a certificate of need to any person under this
398 paragraph (o), and if such skilled nursing facility at any time
399 after the issuance of the certificate of need, regardless of the
400 ownership of the facility, participates in the Medicaid program or
401 admits or keeps any patients in the facility who are participating
402 in the Medicaid program, the State Department of Health shall
403 revoke the certificate of need, if it is still outstanding, and
404 shall deny or revoke the license of the skilled nursing facility,
405 at the time that the department determines, after a hearing
406 complying with due process, that the facility has failed to comply
407 with any of the conditions upon which the certificate of need was
408 issued, as provided in this paragraph and in the written agreement
409 by the recipient of the certificate of need. The total number of
410 nursing facility beds that may be authorized by any certificate of
411 need issued under this paragraph (o) shall not exceed sixty (60)
412 beds. If the certificate of need authorized under this paragraph
413 is not issued within twelve (12) months after July 1, 2001, the
414 department shall deny the application for the certificate of need
415 and shall not issue the certificate of need at any time after the
416 twelve-month period, unless the issuance is contested. If the
417 certificate of need is issued and substantial construction of the
418 nursing facility beds has not commenced within eighteen (18)
419 months after the effective date of July 1, 2001, the State
420 Department of Health, after a hearing complying with due process,
421 shall revoke the certificate of need if it is still outstanding,
422 and the department shall not issue a license for the nursing
423 facility at any time after the eighteen-month period. Provided,
424 however, that if the issuance of the certificate of need is
425 contested, the department shall require substantial construction
426 of the nursing facility beds within six (6) months after final
427 adjudication on the issuance of the certificate of need.

428 (p) The department may issue a certificate of need for
429 the construction of a municipally-owned nursing facility within
430 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
431 beds, provided that the recipient of the certificate of need
432 agrees in writing that the skilled nursing facility will not at
433 any time participate in the Medicaid program (Section 43-13-101 et
434 seq.) or admit or keep any patients in the skilled nursing
435 facility who are participating in the Medicaid program. This
436 written agreement by the recipient of the certificate of need
437 shall be fully binding on any subsequent owner of the skilled
438 nursing facility, if the ownership of the facility is transferred
439 at any time after the issuance of the certificate of need.
440 Agreement that the skilled nursing facility will not participate
441 in the Medicaid program shall be a condition of the issuance of a
442 certificate of need to any person under this paragraph (p), and if
443 such skilled nursing facility at any time after the issuance of
444 the certificate of need, regardless of the ownership of the
445 facility, participates in the Medicaid program or admits or keeps
446 any patients in the facility who are participating in the Medicaid
447 program, the State Department of Health shall revoke the
448 certificate of need, if it is still outstanding, and shall deny or
449 revoke the license of the skilled nursing facility, at the time
450 that the department determines, after a hearing complying with due
451 process, that the facility has failed to comply with any of the
452 conditions upon which the certificate of need was issued, as
453 provided in this paragraph and in the written agreement by the
454 recipient of the certificate of need. The provision of Section
455 43-7-193(1) regarding substantial compliance of the projection of
456 need as reported in the current State Health Plan is waived for
457 the purposes of this paragraph. If the certificate of need
458 authorized under this paragraph is not issued within twelve (12)
459 months after July 1, 1998, the department shall deny the
460 application for the certificate of need and shall not issue the

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

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

484 (ii) Subject to the provisions of subparagraph
485 (v), during each of the next four (4) fiscal years, the department
486 shall issue six (6) certificates of need for new nursing facility
487 beds, as follows: During fiscal years 2000, 2001 and 2002, one
488 (1) certificate of need shall be issued for new nursing facility
489 beds in the county in each of the four (4) Long-Term Care Planning
490 Districts designated in the fiscal year 1999 State Health Plan
491 that has the highest need in the district for those beds; and two
492 (2) certificates of need shall be issued for new nursing facility
493 beds in the two (2) counties from the state at large that have the

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

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

521 (iv) Subject to the provisions of subparagraph
522 (v), the certificate of need issued under subparagraph (ii) for
523 nursing facility beds in the two (2) counties from the state at
524 large during each fiscal year shall first be available for nursing
525 facility beds in the two (2) counties that have the highest need
526 in the state for those beds, as shown in the fiscal year 1999

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

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

556 (r) (i) Beginning on July 1, 1999, the State
557 Department of Health shall issue certificates of need during each
558 of the next two (2) fiscal years for the construction or expansion
559 of nursing facility beds or the conversion of other beds to

560 nursing facility beds in each of the four (4) Long-Term Care
561 Planning Districts designated in the fiscal year 1999 State Health
562 Plan, to provide care exclusively to patients with Alzheimer's
563 disease.

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

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

587 (3) The State Department of Health may grant approval for
588 and issue certificates of need to any person proposing the new
589 construction of, addition to, conversion of beds of or expansion
590 of any health care facility defined in subparagraph (x)
591 (psychiatric residential treatment facility) of Section
592 41-7-173(h). The total number of beds which may be authorized by

593 such certificates of need shall not exceed two hundred
594 seventy-four (274) beds for the entire state.

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

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

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

641 (c) Of the total number of beds authorized under this
642 subsection, the department shall issue a certificate of need to a
643 hospital currently operating Medicaid-certified acute psychiatric
644 beds for adolescents in DeSoto County, for the establishment of a
645 forty-bed psychiatric residential treatment facility in DeSoto
646 County, provided that the hospital agrees in writing (i) that the
647 hospital shall give priority for the use of those forty (40) beds
648 to Mississippi residents who are presently being treated in
649 out-of-state facilities, and (ii) that no more than fifteen (15)
650 of the beds at the psychiatric residential treatment facility will
651 be certified for participation in the Medicaid program (Section
652 43-13-101 et seq.), and that no claim will be submitted for
653 Medicaid reimbursement for more than fifteen (15) patients in the
654 psychiatric residential treatment facility in any day or for any
655 patient in the psychiatric residential treatment facility who is
656 in a bed that is not Medicaid-certified. Notwithstanding the
657 restrictions on Medicaid participation set forth in the preceding
658 sentence, from and after the effective date of this act, all forty

659 (40) of the beds in the psychiatric residential treatment facility
660 may be certified for participation in the Medicaid program, and
661 claims may be submitted for Medicaid reimbursement for all
662 patients in the psychiatric residential treatment facility. From
663 and after the effective date of this act, any restrictions or
664 limitations on Medicaid participation or reimbursement in
665 connection with the psychiatric residential treatment facility,
666 whether statutory or in any certificate of need, written agreement
667 or otherwise, shall be deemed null and void, and the facility and
668 all beds in the facility may participate fully in the Medicaid
669 program. In order for all forty (40) beds in the psychiatric
670 residential facility to become certified for Medicaid
671 reimbursement, the recipient of the certificate of need for the
672 facility shall not be required to obtain an additional certificate
673 of need, but shall only be required to provide written notice to
674 the State Department of Health, or its successor, and the Division
675 of Medicaid, or its successor, shall promptly issue a written
676 approval authorizing all forty (40) beds in the facility to be
677 certified for Medicaid participation, and shall promptly take any
678 and all action required to certify all forty (40) beds for
679 participation in the Medicaid program. From and after the
680 effective date of this act, the State Department of Health, or its
681 successor, shall not be authorized to revoke the license of the
682 psychiatric residential treatment facility on the grounds that the
683 facility admits or keeps, on a regular or continuing basis, more
684 than fifteen (15) patients who are participating in the Medicaid
685 program. There shall be no restriction or limitation regarding
686 Medicaid participation with respect to any subsequent owner of the
687 psychiatric residential treatment facility.

688 (d) Of the total number of beds authorized under this
689 subsection, the department may issue a certificate or certificates
690 of need for the construction or expansion of psychiatric
691 residential treatment facility beds or the conversion of other

692 beds to psychiatric treatment facility beds, not to exceed thirty
693 (30) psychiatric residential treatment facility beds, in either
694 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
695 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

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

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

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

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

755 (ii) The department may issue a certificate of
756 need for the conversion of existing beds in a county hospital in
757 Choctaw County from acute care beds to child/adolescent chemical

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

768 (iii) The department may issue a certificate or
769 certificates of need for the construction or expansion of
770 child/adolescent psychiatric beds or the conversion of other beds
771 to child/adolescent psychiatric beds in Warren County. For
772 purposes of this subparagraph, the provisions of Section
773 41-7-193(1) requiring substantial compliance with the projection
774 of need as reported in the current State Health Plan are waived.
775 The total number of beds that may be authorized under the
776 authority of this subparagraph shall not exceed twenty (20) beds.

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

782 (iv) The department shall issue a certificate of
783 need to the Region 7 Mental Health/Retardation Commission for the
784 construction or expansion of child/adolescent psychiatric beds or
785 the conversion of other beds to child/adolescent psychiatric beds
786 in any of the counties served by the commission. For purposes of
787 this subparagraph, the provisions of Section 41-7-193(1) requiring
788 substantial compliance with the projection of need as reported in
789 the current State Health Plan is waived. The total number of beds
790 that may be authorized under the authority of this subparagraph

791 shall not exceed twenty (20) beds. There shall be no prohibition
792 or restrictions on participation in the Medicaid program (Section
793 43-13-101 et seq.) for the person receiving the certificate of
794 need authorized under this subparagraph (a)(iv) or for the beds
795 converted pursuant to the authority of that certificate of need.

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

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

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

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

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

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

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

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

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

922 (9) The Department of Health shall not grant approval for or

923 issue a certificate of need to any person proposing the
924 establishment of, or expansion of the currently approved territory
925 of, or the contracting to establish a home office, subunit or
926 branch office within the space operated as a health care facility
927 as defined in Section 41-7-173(h)(i) through (viii) by a health
928 care facility as defined in subparagraph (ix) of Section
929 41-7-173(h).

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

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

956 (12) The new construction, renovation or expansion of or
957 addition to any veterans homes or domiciliaries for eligible
958 veterans of the State of Mississippi as authorized under Section
959 35-1-19 shall not require the issuance of a certificate of need,
960 notwithstanding any provision in Section 41-7-171 et seq. to the
961 contrary.

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

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

989 in the Medicaid program, admitting or keeping any patient in the
990 facility who is participating in the Medicaid program, or
991 submitting any claim for Medicaid reimbursement for any patient in
992 the facility, the State Department of Health shall revoke the
993 license of the nursing facility at the time that the department
994 determines, after a hearing complying with due process, that the
995 facility has violated the terms of the written agreement.

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

1004 (c) The new construction of a nursing facility or
1005 nursing facility beds or the conversion of other beds to nursing
1006 facility beds described in this section must be either a part of a
1007 completely new continuing care retirement community, as described
1008 in the latest edition of the Mississippi State Health Plan, or an
1009 addition to existing personal care and independent living
1010 components, and so that the completed project will be a continuing
1011 care retirement community, containing (i) independent living
1012 accommodations, (ii) personal care beds, and (iii) the nursing
1013 home facility beds. The three (3) components must be located on a
1014 single site and be operated as one (1) inseparable facility. The
1015 nursing facility component must contain a minimum of thirty (30)
1016 beds. Any nursing facility beds authorized by this section will
1017 not be counted against the bed need set forth in the State Health
1018 Plan, as identified in Section 41-7-171, et seq.

1019 This subsection (13) shall stand repealed from and after July
1020 1, 2001.

1021 (14) The State Department of Health shall issue a

1022 certificate of need to any hospital which is currently licensed
1023 for two hundred fifty (250) or more acute care beds and is located
1024 in any general hospital service area not having a comprehensive
1025 cancer center, for the establishment and equipping of such a
1026 center which provides facilities and services for outpatient
1027 radiation oncology therapy, outpatient medical oncology therapy,
1028 and appropriate support services including the provision of
1029 radiation therapy services. The provision of Section 41-7-193(1)
1030 regarding substantial compliance with the projection of need as
1031 reported in the current State Health Plan is waived for the
1032 purpose of this subsection.

1033 (15) Nothing in this section or in any other provision of
1034 Section 41-7-171 et seq. shall prevent any nursing facility from
1035 designating an appropriate number of existing beds in the facility
1036 as beds for providing care exclusively to patients with
1037 Alzheimer's disease.

1038 SECTION 2. This act shall take effect and be in force from
1039 and after its passage.