

By: Senator(s) Tollison

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2132

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT COUNTY-OWNED HOSPITALS IN YALOBUSHA AND
3 TALLAHATCHIE COUNTIES SHALL HAVE PRIORITY IN APPLYING FOR
4 CERTIFICATES OF NEED FOR NURSING FACILITY BEDS; AND FOR RELATED
5 SERVICES.

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:

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

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

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

586 (iii) The State Department of Health, in
587 consultation with the Department of Mental Health and the Division
588 of Medicaid, shall develop and prescribe the staffing levels,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

787 43-13-101 et seq.) for the person receiving the certificate of
788 need authorized under this subparagraph (a)(iv) or for the beds
789 converted pursuant to the authority of that certificate of need.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

952 veterans of the State of Mississippi as authorized under Section
953 35-1-19 shall not require the issuance of a certificate of need,
954 notwithstanding any provision in Section 41-7-171 et seq. to the
955 contrary.

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

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

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

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

998 (c) The new construction of a nursing facility or
999 nursing facility beds or the conversion of other beds to nursing
1000 facility beds described in this section must be either a part of a
1001 completely new continuing care retirement community, as described
1002 in the latest edition of the Mississippi State Health Plan, or an
1003 addition to existing personal care and independent living
1004 components, and so that the completed project will be a continuing
1005 care retirement community, containing (i) independent living
1006 accommodations, (ii) personal care beds, and (iii) the nursing
1007 home facility beds. The three (3) components must be located on a
1008 single site and be operated as one (1) inseparable facility. The
1009 nursing facility component must contain a minimum of thirty (30)
1010 beds. Any nursing facility beds authorized by this section will
1011 not be counted against the bed need set forth in the State Health
1012 Plan, as identified in Section 41-7-171, et seq.

1013 This subsection (13) shall stand repealed from and after July
1014 1, 2001.

1015 (14) The State Department of Health shall issue a
1016 certificate of need to any hospital which is currently licensed
1017 for two hundred fifty (250) or more acute care beds and is located

1018 in any general hospital service area not having a comprehensive
1019 cancer center, for the establishment and equipping of such a
1020 center which provides facilities and services for outpatient
1021 radiation oncology therapy, outpatient medical oncology therapy,
1022 and appropriate support services including the provision of
1023 radiation therapy services. The provision of Section 41-7-193(1)
1024 regarding substantial compliance with the projection of need as
1025 reported in the current State Health Plan is waived for the
1026 purpose of this subsection.

1027 (15) Nothing in this section or in any other provision of
1028 Section 41-7-171 et seq. shall prevent any nursing facility from
1029 designating an appropriate number of existing beds in the facility
1030 as beds for providing care exclusively to patients with
1031 Alzheimer's disease.

1032 SECTION 2. This act shall take effect and be in force from
1033 and after July 1, 2001.