

By: Representative Johnson

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 61

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE CONSTRUCTION OF ANY NURSING FACILITY OR THE
3 CONVERSION OF OTHER BEDS TO NURSING FACILITY BEDS AT ANY NURSING
4 FACILITY SHALL BE EXEMPT FROM THE CERTIFICATE OF NEED PROCESS, IF
5 THE OWNER OF THE NURSING FACILITY SIGNS A WRITTEN AGREEMENT WITH
6 THE STATE DEPARTMENT OF HEALTH THAT THE ENTIRE FACILITY WILL NOT
7 PARTICIPATE IN THE MEDICAID PROGRAM OR ADMIT OR KEEP ANY PATIENTS
8 IN THE FACILITY WHO ARE PARTICIPATING IN THE MEDICAID PROGRAM; TO
9 DELETE THE REQUIREMENT THAT SUCH A NURSING FACILITY MUST BE PART
10 OF A CONTINUING CARE RETIREMENT COMMUNITY IN ORDER TO BE EXEMPT
11 FROM THE CERTIFICATE OF NEED PROCESS; TO DELETE THE REPEALER ON
12 THIS EXEMPTION PROVISION; AND FOR RELATED PURPOSES.

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

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

16 41-7-191. (1) No person shall engage in any of the
17 following activities without obtaining the required certificate of
18 need:

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

21 (b) The relocation of a health care facility or portion
22 thereof, or major medical equipment;

23 (c) A change over a period of two (2) years' time, as
24 established by the State Department of Health, in existing bed
25 complement through the addition of more than ten (10) beds or more
26 than ten percent (10%) of the total bed capacity of a designated
27 licensed category or subcategory of any health care facility,
28 whichever is less, from one physical facility or site to another;
29 the conversion over a period of two (2) years' time, as
30 established by the State Department of Health, of existing bed
31 complement of more than ten (10) beds or more than ten percent
32 (10%) of the total bed capacity of a designated licensed category

33 or subcategory of any such health care facility, whichever is
34 less; or the alteration, modernizing or refurbishing of any unit
35 or department wherein such beds may be located; provided, however,
36 that from and after July 1, 1994, no health care facility shall be
37 authorized to add any beds or convert any beds to another category
38 of beds without a certificate of need under the authority of
39 subsection (1)(c) of this section unless there is a projected need
40 for such beds in the planning district in which the facility is
41 located, as reported in the most current State Health Plan;

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

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

65 (e) The relocation of one or more health services from
66 one physical facility or site to another physical facility or
67 site, unless such relocation, which does not involve a capital
68 expenditure by or on behalf of a health care facility, is the
69 result of an order of a court of appropriate jurisdiction or a
70 result of pending litigation in such court, or by order of the

71 State Department of Health, or by order of any other agency or
72 legal entity of the state, the federal government, or any
73 political subdivision of either, whose order is also approved by
74 the State Department of Health;

75 (f) The acquisition or otherwise control of any major
76 medical equipment for the provision of medical services; provided,
77 however, that the acquisition of any major medical equipment used
78 only for research purposes shall be exempt from this paragraph; an
79 acquisition for less than fair market value must be reviewed, if
80 the acquisition at fair market value would be subject to review;

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

89 (h) The change of ownership of any health care facility
90 defined in subparagraphs (iv), (vi) and (viii) of Section
91 41-7-173(h), in which a notice of intent as described in paragraph
92 (g) has not been filed and if the Executive Director, Division of
93 Medicaid, Office of the Governor, has not certified in writing
94 that there will be no increase in allowable costs to Medicaid from
95 revaluation of the assets or from increased interest and
96 depreciation as a result of the proposed change of ownership;

97 (i) Any activity described in paragraphs (a) through
98 (h) if undertaken by any person if that same activity would
99 require certificate of need approval if undertaken by a health
100 care facility;

101 (j) Any capital expenditure or deferred capital
102 expenditure by or on behalf of a health care facility not covered
103 by paragraphs (a) through (h);

104 (k) The contracting of a health care facility as

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

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

117 (a) The total number of nursing home beds as defined in
118 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
119 authorized by such certificates of need issued during the period
120 beginning on July 1, 1989, and ending on June 30, 1999, shall not
121 exceed one thousand four hundred seventy (1,470) beds. The number
122 of nursing home beds authorized under paragraphs (z), (cc), (dd),
123 (ee) and (ff) of this subsection (2) shall not be counted in the
124 limit on the total number of beds provided for in this paragraph
125 (a).

126 (b) The department may issue a certificate of need to
127 any of the hospitals in the state which have a distinct part
128 component of the hospital that was constructed for extended care
129 use (nursing home care) but is not currently licensed to provide
130 nursing home care, which certificate of need will authorize the
131 distinct part component to be operated to provide nursing home
132 care after a license is obtained. The six (6) hospitals which
133 currently have these distinct part components and which are
134 eligible for a certificate of need under this section are:

135 Webster General Hospital in Webster County, Tippah County General
136 Hospital in Tippah County, Tishomingo County Hospital in
137 Tishomingo County, North Sunflower County Hospital in Sunflower
138 County, H.C. Watkins Hospital in Clarke County and Northwest

139 Regional Medical Center in Coahoma County. Because the facilities
140 to be considered currently exist and no new construction is
141 required, the provision of Section 41-7-193(1) regarding
142 substantial compliance with the projection of need as reported in
143 the 1989 State Health Plan is waived. The total number of nursing
144 home care beds that may be authorized by certificates of need
145 issued under this paragraph shall not exceed one hundred
146 fifty-four (154) beds.

147 (c) The department may issue a certificate of need to
148 any person proposing the new construction of any health care
149 facility defined in subparagraphs (iv) and (vi) of Section
150 41-7-173(h) as part of a life care retirement facility, in any
151 county bordering on the Gulf of Mexico in which is located a
152 National Aeronautics and Space Administration facility, not to
153 exceed forty (40) beds, provided that the owner of the health care
154 facility on July 1, 1994, agrees in writing that no more than
155 twenty (20) of the beds in the health care facility will be
156 certified for participation in the Medicaid program (Section
157 43-13-101 et seq.), and that no claim will be submitted for
158 Medicaid reimbursement for more than twenty (20) patients in the
159 health care facility in any day or for any patient in the health
160 care facility who is in a bed that is not Medicaid-certified.
161 This written agreement by the owner of the health care facility on
162 July 1, 1994, shall be fully binding on any subsequent owner of
163 the health care facility if the ownership of the health care
164 facility is transferred at any time after July 1, 1994. After
165 this written agreement is executed, the Division of Medicaid and
166 the State Department of Health shall not certify more than twenty
167 (20) of the beds in the health care facility for participation in
168 the Medicaid program. If the health care facility violates the
169 terms of the written agreement by admitting or keeping in the
170 health care facility on a regular or continuing basis more than
171 twenty (20) patients who are participating in the Medicaid
172 program, the State Department of Health shall revoke the license

173 of the health care facility, at the time that the department
174 determines, after a hearing complying with due process, that the
175 health care facility has violated the terms of the written
176 agreement as provided in this paragraph.

177 (d) The department may issue a certificate of need for
178 the conversion of existing beds in a county district hospital or
179 in a personal care home in Holmes County to provide nursing home
180 care in the county. Because the facilities to be considered
181 currently exist, no new construction shall be authorized by such
182 certificate of need. Because the facilities to be considered
183 currently exist and no new construction is required, the provision
184 of Section 41-7-193(1) regarding substantial compliance with the
185 projection of need as reported in the 1989 State Health Plan is
186 waived. The total number of nursing home care beds that may be
187 authorized by any certificate of need issued under this paragraph
188 shall not exceed sixty (60) beds.

189 (e) The department may issue a certificate of need for
190 the conversion of existing hospital beds to provide nursing home
191 care in a county hospital in Jasper County that has its own
192 licensed nursing home located adjacent to the hospital. The total
193 number of nursing home care beds that may be authorized by any
194 certificate of need issued under this paragraph shall not exceed
195 twenty (20) beds.

196 (f) The department may issue a certificate of need for
197 the conversion of existing hospital beds in a hospital in Calhoun
198 County to provide nursing home care in the county. The total
199 number of nursing home care beds that may be authorized by any
200 certificate of need issued under this paragraph shall not exceed
201 twenty (20) beds.

202 (g) The department may issue a certificate of need for
203 the conversion of existing hospital beds to provide nursing home
204 care, not to exceed twenty-five (25) beds, in George County.

205 (h) Provided all criteria specified in the 1989 State
206 Health Plan are met and the proposed nursing home is within no

207 more than a fifteen (15) minute transportation time to an existing
208 hospital, the department may issue a certificate of need for the
209 construction of one (1) sixty-bed nursing home in Benton County.

210 (i) The department may issue a certificate of need to
211 provide nursing home care in Neshoba County, not to exceed a total
212 of twenty (20) beds. The provision of Section 41-7-193(1)
213 regarding substantial compliance with the projection of need as
214 reported in the current State Health Plan is waived for the
215 purposes of this paragraph.

216 (j) The department may issue certificates of need on a
217 pilot-program basis for county-owned hospitals in Kemper and
218 Chickasaw Counties to convert vacant hospital beds to nursing home
219 beds, not to exceed fifty (50) beds statewide.

220 (k) The department may issue certificates of need in
221 Harrison County to provide skilled nursing home care for
222 Alzheimer's Disease patients and other patients, not to exceed one
223 hundred fifty (150) beds, provided that (i) the owner of the
224 health care facility issued a certificate of need for sixty (60)
225 beds agrees in writing that no more than thirty (30) of the beds
226 in the health care facility will be certified for participation in
227 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
228 of one (1) of the health care facilities issued a certificate of
229 need for forty-five (45) beds agrees in writing that no more than
230 twenty-three (23) of the beds in the health care facility will be
231 certified for participation in the Medicaid program, and (iii) the
232 owner of the other health care facility issued a certificate of
233 need for forty-five (45) beds agrees in writing that no more than
234 twenty-two (22) of the beds in the health care facility will be
235 certified for participation in the Medicaid program, and that no
236 claim will be submitted for Medicaid reimbursement for a number of
237 patients in the health care facility in any day that is greater
238 than the number of beds certified for participation in the
239 Medicaid program or for any patient in the health care facility
240 who is in a bed that is not Medicaid-certified. These written

241 agreements by the owners of the health care facilities on July 1,
242 1995, shall be fully binding on any subsequent owner of any of the
243 health care facilities if the ownership of any of the health care
244 facilities is transferred at any time after July 1, 1995. After
245 these written agreements are executed, the Division of Medicaid
246 and the State Department of Health shall not certify for
247 participation in the Medicaid program more than the number of beds
248 authorized for participation in the Medicaid program under this
249 paragraph (k) for each respective facility. If any of the health
250 care facilities violates the terms of the written agreement by
251 admitting or keeping in the health care facility on a regular or
252 continuing basis a number of patients that is greater than the
253 number of beds certified for participation in the Medicaid
254 program, the State Department of Health shall revoke the license
255 of the health care facility, at the time that the department
256 determines, after a hearing complying with due process, that the
257 health care facility has violated the terms of the written
258 agreement as provided in this paragraph.

259 (l) The department may issue certificates of need for
260 the new construction of, addition to, or expansion of any skilled
261 nursing facility or intermediate care facility in Jackson County,
262 not to exceed a total of sixty (60) beds.

263 (m) The department may issue a certificate of need for
264 the new construction of, addition to, or expansion of a nursing
265 home, or the conversion of existing hospital beds to provide
266 nursing home care, in Hancock County. The total number of nursing
267 home care beds that may be authorized by any certificate of need
268 issued under this paragraph shall not exceed sixty (60) beds.

269 (n) The department may issue a certificate of need to
270 any intermediate care facility as defined in Section
271 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
272 beds, for making additions to or expansion or replacement of the
273 existing facility in order to increase the number of its beds to
274 not more than sixty (60) beds. For the purposes of this

275 paragraph, the provision of Section 41-7-193(1) requiring
276 substantial compliance with the projection of need as reported in
277 the current State Health Plan is waived. The total number of
278 nursing home beds that may be authorized by any certificate of
279 need issued under this paragraph shall not exceed twenty-five (25)
280 beds.

281 (o) The department may issue a certificate of need for
282 the conversion of nursing home beds, not to exceed thirteen (13)
283 beds, in Winston County. The provision of Section 41-7-193(1)
284 regarding substantial compliance with the projection of need as
285 reported in the current State Health Plan is hereby waived as to
286 such construction or expansion.

287 (p) The department shall issue a certificate of need
288 for the construction, expansion or conversion of nursing home
289 care, not to exceed thirty-three (33) beds, in Pontotoc County.
290 The provisions of Section 41-7-193(1) regarding substantial
291 compliance with the projection of need as reported in the current
292 State Health Plan are hereby waived as to such construction,
293 expansion or conversion.

294 (q) The department may issue a certificate of need for
295 the construction of a pediatric skilled nursing facility in
296 Harrison County, not to exceed sixty (60) new beds. For the
297 purposes of this paragraph, the provision of Section 41-7-193(1)
298 requiring substantial compliance with the projection of need as
299 reported in the current State Health Plan is waived.

300 (r) The department may issue a certificate of need for
301 the addition to or expansion of any skilled nursing facility that
302 is part of an existing continuing care retirement community
303 located in Madison County, provided that the recipient of the
304 certificate of need agrees in writing that the skilled nursing
305 facility will not at any time participate in the Medicaid program
306 (Section 43-13-101 et seq.) or admit or keep any patients in the
307 skilled nursing facility who are participating in the Medicaid
308 program. This written agreement by the recipient of the

309 certificate of need shall be fully binding on any subsequent owner
310 of the skilled nursing facility, if the ownership of the facility
311 is transferred at any time after the issuance of the certificate
312 of need. Agreement that the skilled nursing facility will not
313 participate in the Medicaid program shall be a condition of the
314 issuance of a certificate of need to any person under this
315 paragraph (r), and if such skilled nursing facility at any time
316 after the issuance of the certificate of need, regardless of the
317 ownership of the facility, participates in the Medicaid program or
318 admits or keeps any patients in the facility who are participating
319 in the Medicaid program, the State Department of Health shall
320 revoke the certificate of need, if it is still outstanding, and
321 shall deny or revoke the license of the skilled nursing facility,
322 at the time that the department determines, after a hearing
323 complying with due process, that the facility has failed to comply
324 with any of the conditions upon which the certificate of need was
325 issued, as provided in this paragraph and in the written agreement
326 by the recipient of the certificate of need. The total number of
327 beds that may be authorized under the authority of this paragraph
328 (r) shall not exceed sixty (60) beds.

329 (s) The State Department of Health may issue a
330 certificate of need to any hospital located in DeSoto County for
331 the new construction of a skilled nursing facility, not to exceed
332 one hundred twenty (120) beds, in DeSoto County, provided that the
333 recipient of the certificate of need agrees in writing that no
334 more than thirty (30) of the beds in the skilled nursing facility
335 will be certified for participation in the Medicaid program
336 (Section 43-13-101 et seq.), and that no claim will be submitted
337 for Medicaid reimbursement for more than thirty (30) patients in
338 the facility in any day or for any patient in the facility who is
339 in a bed that is not Medicaid-certified. This written agreement
340 by the recipient of the certificate of need shall be a condition
341 of the issuance of the certificate of need under this paragraph,
342 and the agreement shall be fully binding on any subsequent owner

343 of the skilled nursing facility if the ownership of the facility
344 is transferred at any time after the issuance of the certificate
345 of need. After this written agreement is executed, the Division
346 of Medicaid and the State Department of Health shall not certify
347 more than thirty (30) of the beds in the skilled nursing facility
348 for participation in the Medicaid program. If the skilled nursing
349 facility violates the terms of the written agreement by admitting
350 or keeping in the facility on a regular or continuing basis more
351 than thirty (30) patients who are participating in the Medicaid
352 program, the State Department of Health shall revoke the license
353 of the facility, at the time that the department determines, after
354 a hearing complying with due process, that the facility has
355 violated the condition upon which the certificate of need was
356 issued, as provided in this paragraph and in the written
357 agreement. If the skilled nursing facility authorized by the
358 certificate of need issued under this paragraph is not constructed
359 and fully operational within eighteen (18) months after July 1,
360 1994, the State Department of Health, after a hearing complying
361 with due process, shall revoke the certificate of need, if it is
362 still outstanding, and shall not issue a license for the facility
363 at any time after the expiration of the eighteen-month period.

364 (t) The State Department of Health may issue a
365 certificate of need for the construction of a nursing facility or
366 the conversion of beds to nursing facility beds at a personal care
367 facility for the elderly in Lowndes County that is owned and
368 operated by a Mississippi nonprofit corporation, not to exceed
369 sixty (60) beds, provided that the recipient of the certificate of
370 need agrees in writing that no more than thirty (30) of the beds
371 at the facility will be certified for participation in the
372 Medicaid program (Section 43-13-101 et seq.), and that no claim
373 will be submitted for Medicaid reimbursement for more than thirty
374 (30) patients in the facility in any month or for any patient in
375 the facility who is in a bed that is not Medicaid-certified. This
376 written agreement by the recipient of the certificate of need

377 shall be a condition of the issuance of the certificate of need
378 under this paragraph, and the agreement shall be fully binding on
379 any subsequent owner of the facility if the ownership of the
380 facility is transferred at any time after the issuance of the
381 certificate of need. After this written agreement is executed,
382 the Division of Medicaid and the State Department of Health shall
383 not certify more than thirty (30) of the beds in the facility for
384 participation in the Medicaid program. If the facility violates
385 the terms of the written agreement by admitting or keeping in the
386 facility on a regular or continuing basis more than thirty (30)
387 patients who are participating in the Medicaid program, the State
388 Department of Health shall revoke the license of the facility, at
389 the time that the department determines, after a hearing complying
390 with due process, that the facility has violated the condition
391 upon which the certificate of need was issued, as provided in this
392 paragraph and in the written agreement. If the nursing facility
393 or nursing facility beds authorized by the certificate of need
394 issued under this paragraph are not constructed or converted and
395 fully operational within eighteen (18) months after July 1, 1994,
396 the State Department of Health, after a hearing complying with due
397 process, shall revoke the certificate of need, if it is still
398 outstanding, and shall not issue a license for the nursing
399 facility or nursing facility beds at any time after the expiration
400 of the eighteen-month period.

401 (u) The State Department of Health may issue a
402 certificate of need for conversion of a county hospital facility
403 in Itawamba County to a nursing facility, not to exceed sixty (60)
404 beds, including any necessary construction, renovation or
405 expansion, provided that the recipient of the certificate of need
406 agrees in writing that no more than thirty (30) of the beds at the
407 facility will be certified for participation in the Medicaid
408 program (Section 43-13-101 et seq.), and that no claim will be
409 submitted for Medicaid reimbursement for more than thirty (30)
410 patients in the facility in any day or for any patient in the

411 facility who is in a bed that is not Medicaid-certified. This
412 written agreement by the recipient of the certificate of need
413 shall be a condition of the issuance of the certificate of need
414 under this paragraph, and the agreement shall be fully binding on
415 any subsequent owner of the facility if the ownership of the
416 facility is transferred at any time after the issuance of the
417 certificate of need. After this written agreement is executed,
418 the Division of Medicaid and the State Department of Health shall
419 not certify more than thirty (30) of the beds in the facility for
420 participation in the Medicaid program. If the facility violates
421 the terms of the written agreement by admitting or keeping in the
422 facility on a regular or continuing basis more than thirty (30)
423 patients who are participating in the Medicaid program, the State
424 Department of Health shall revoke the license of the facility, at
425 the time that the department determines, after a hearing complying
426 with due process, that the facility has violated the condition
427 upon which the certificate of need was issued, as provided in this
428 paragraph and in the written agreement. If the beds authorized by
429 the certificate of need issued under this paragraph are not
430 converted to nursing facility beds and fully operational within
431 eighteen (18) months after July 1, 1994, the State Department of
432 Health, after a hearing complying with due process, shall revoke
433 the certificate of need, if it is still outstanding, and shall not
434 issue a license for the facility at any time after the expiration
435 of the eighteen-month period.

436 (v) The State Department of Health may issue a
437 certificate of need for the construction or expansion of nursing
438 facility beds or the conversion of other beds to nursing facility
439 beds in either Hinds, Madison or Rankin Counties, not to exceed
440 sixty (60) beds, provided that the recipient of the certificate of
441 need agrees in writing that no more than thirty (30) of the beds
442 at the nursing facility will be certified for participation in the
443 Medicaid program (Section 43-13-101 et seq.), and that no claim
444 will be submitted for Medicaid reimbursement for more than thirty

445 (30) patients in the nursing facility in any day or for any
446 patient in the nursing facility who is in a bed that is not
447 Medicaid-certified. This written agreement by the recipient of
448 the certificate of need shall be a condition of the issuance of
449 the certificate of need under this paragraph, and the agreement
450 shall be fully binding on any subsequent owner of the nursing
451 facility if the ownership of the nursing facility is transferred
452 at any time after the issuance of the certificate of need. After
453 this written agreement is executed, the Division of Medicaid and
454 the State Department of Health shall not certify more than thirty
455 (30) of the beds in the nursing facility for participation in the
456 Medicaid program. If the nursing facility violates the terms of
457 the written agreement by admitting or keeping in the nursing
458 facility on a regular or continuing basis more than thirty (30)
459 patients who are participating in the Medicaid program, the State
460 Department of Health shall revoke the license of the nursing
461 facility, at the time that the department determines, after a
462 hearing complying with due process, that the nursing facility has
463 violated the condition upon which the certificate of need was
464 issued, as provided in this paragraph and in the written
465 agreement. If the nursing facility or nursing facility beds
466 authorized by the certificate of need issued under this paragraph
467 are not constructed, expanded or converted and fully operational
468 within thirty-six (36) months after July 1, 1994, the State
469 Department of Health, after a hearing complying with due process,
470 shall revoke the certificate of need, if it is still outstanding,
471 and shall not issue a license for the nursing facility or nursing
472 facility beds at any time after the expiration of the
473 thirty-six-month period.

474 (w) The State Department of Health may issue a
475 certificate of need for the construction or expansion of nursing
476 facility beds or the conversion of other beds to nursing facility
477 beds in either Hancock, Harrison or Jackson Counties, not to
478 exceed sixty (60) beds, provided that the recipient of the

479 certificate of need agrees in writing that no more than thirty
480 (30) of the beds at the nursing facility will be certified for
481 participation in the Medicaid program (Section 43-13-101 et seq.),
482 and that no claim will be submitted for Medicaid reimbursement for
483 more than thirty (30) patients in the nursing facility in any day
484 or for any patient in the nursing facility who is in a bed that is
485 not Medicaid-certified. This written agreement by the recipient
486 of the certificate of need shall be a condition of the issuance of
487 the certificate of need under this paragraph, and the agreement
488 shall be fully binding on any subsequent owner of the nursing
489 facility if the ownership of the nursing facility is transferred
490 at any time after the issuance of the certificate of need. After
491 this written agreement is executed, the Division of Medicaid and
492 the State Department of Health shall not certify more than thirty
493 (30) of the beds in the nursing facility for participation in the
494 Medicaid program. If the nursing facility violates the terms of
495 the written agreement by admitting or keeping in the nursing
496 facility on a regular or continuing basis more than thirty (30)
497 patients who are participating in the Medicaid program, the State
498 Department of Health shall revoke the license of the nursing
499 facility, at the time that the department determines, after a
500 hearing complying with due process, that the nursing facility has
501 violated the condition upon which the certificate of need was
502 issued, as provided in this paragraph and in the written
503 agreement. If the nursing facility or nursing facility beds
504 authorized by the certificate of need issued under this paragraph
505 are not constructed, expanded or converted and fully operational
506 within thirty-six (36) months after July 1, 1994, the State
507 Department of Health, after a hearing complying with due process,
508 shall revoke the certificate of need, if it is still outstanding,
509 and shall not issue a license for the nursing facility or nursing
510 facility beds at any time after the expiration of the
511 thirty-six-month period.

512 (x) The department may issue a certificate of need for

513 the new construction of a skilled nursing facility in Leake
514 County, provided that the recipient of the certificate of need
515 agrees in writing that the skilled nursing facility will not at
516 any time participate in the Medicaid program (Section 43-13-101 et
517 seq.) or admit or keep any patients in the skilled nursing
518 facility who are participating in the Medicaid program. This
519 written agreement by the recipient of the certificate of need
520 shall be fully binding on any subsequent owner of the skilled
521 nursing facility, if the ownership of the facility is transferred
522 at any time after the issuance of the certificate of need.
523 Agreement that the skilled nursing facility will not participate
524 in the Medicaid program shall be a condition of the issuance of a
525 certificate of need to any person under this paragraph (x), and if
526 such skilled nursing facility at any time after the issuance of
527 the certificate of need, regardless of the ownership of the
528 facility, participates in the Medicaid program or admits or keeps
529 any patients in the facility who are participating in the Medicaid
530 program, the State Department of Health shall revoke the
531 certificate of need, if it is still outstanding, and shall deny or
532 revoke the license of the skilled nursing facility, at the time
533 that the department determines, after a hearing complying with due
534 process, that the facility has failed to comply with any of the
535 conditions upon which the certificate of need was issued, as
536 provided in this paragraph and in the written agreement by the
537 recipient of the certificate of need. The provision of Section
538 43-7-193(1) regarding substantial compliance of the projection of
539 need as reported in the current State Health Plan is waived for
540 the purposes of this paragraph. The total number of nursing
541 facility beds that may be authorized by any certificate of need
542 issued under this paragraph (x) shall not exceed sixty (60) beds.
543 If the skilled nursing facility authorized by the certificate of
544 need issued under this paragraph is not constructed and fully
545 operational within eighteen (18) months after July 1, 1994, the
546 State Department of Health, after a hearing complying with due

547 process, shall revoke the certificate of need, if it is still
548 outstanding, and shall not issue a license for the skilled nursing
549 facility at any time after the expiration of the eighteen-month
550 period.

551 (y) The department may issue a certificate of need in
552 Jones County for making additions to or expansion or replacement
553 of an existing forty-bed facility in order to increase the number
554 of its beds to not more than sixty (60) beds. For the purposes of
555 this paragraph, the provision of Section 41-7-193(1) requiring
556 substantial compliance with the projection of need as reported in
557 the current State Health Plan is waived. The total number of
558 nursing home beds that may be authorized by any certificate of
559 need issued under this paragraph shall not exceed twenty (20)
560 beds.

561 (z) The department may issue certificates of need to
562 allow any existing freestanding long-term care facility in
563 Tishomingo County and Hancock County that on July 1, 1995, is
564 licensed with fewer than sixty (60) beds to increase the number of
565 its beds to not more than sixty (60) beds, provided that the
566 recipient of the certificate of need agrees in writing that none
567 of the additional beds authorized by this paragraph (z) at the
568 nursing facility will be certified for participation in the
569 Medicaid program (Section 43-13-101 et seq.), and that no claim
570 will be submitted for Medicaid reimbursement in the nursing
571 facility for a number of patients in the nursing facility in any
572 day that is greater than the number of licensed beds in the
573 facility on July 1, 1995. This written agreement by the recipient
574 of the certificate of need shall be a condition of the issuance of
575 the certificate of need under this paragraph, and the agreement
576 shall be fully binding on any subsequent owner of the nursing
577 facility if the ownership of the nursing facility is transferred
578 at any time after the issuance of the certificate of need. After
579 this agreement is executed, the Division of Medicaid and the State
580 Department of Health shall not certify more beds in the nursing

581 facility for participation in the Medicaid program than the number
582 of licensed beds in the facility on July 1, 1995. If the nursing
583 facility violates the terms of the written agreement by admitting
584 or keeping in the nursing facility on a regular or continuing
585 basis a number of patients who are participating in the Medicaid
586 program that is greater than the number of licensed beds in the
587 facility on July 1, 1995, the State Department of Health shall
588 revoke the license of the nursing facility, at the time that the
589 department determines, after a hearing complying with due process,
590 that the nursing facility has violated the condition upon which
591 the certificate of need was issued, as provided in this paragraph
592 and in the written agreement. For the purposes of this paragraph
593 (z), the provision of Section 41-7-193(1) requiring substantial
594 compliance with the projection of need as reported in the current
595 State Health Plan is waived.

596 (aa) The department may issue a certificate of need for
597 the construction of a nursing facility at a continuing care
598 retirement community in Lowndes County, provided that the
599 recipient of the certificate of need agrees in writing that the
600 nursing facility will not at any time participate in the Medicaid
601 program (Section 43-13-101 et seq.) or admit or keep any patients
602 in the nursing facility who are participating in the Medicaid
603 program. This written agreement by the recipient of the
604 certificate of need shall be fully binding on any subsequent owner
605 of the nursing facility, if the ownership of the facility is
606 transferred at any time after the issuance of the certificate of
607 need. Agreement that the nursing facility will not participate in
608 the Medicaid program shall be a condition of the issuance of a
609 certificate of need to any person under this paragraph (aa), and
610 if such nursing facility at any time after the issuance of the
611 certificate of need, regardless of the ownership of the facility,
612 participates in the Medicaid program or admits or keeps any
613 patients in the facility who are participating in the Medicaid
614 program, the State Department of Health shall revoke the

615 certificate of need, if it is still outstanding, and shall deny or
616 revoke the license of the nursing facility, at the time that the
617 department determines, after a hearing complying with due process,
618 that the facility has failed to comply with any of the conditions
619 upon which the certificate of need was issued, as provided in this
620 paragraph and in the written agreement by the recipient of the
621 certificate of need. The total number of beds that may be
622 authorized under the authority of this paragraph (aa) shall not
623 exceed sixty (60) beds.

624 (bb) Provided that funds are specifically appropriated
625 therefor by the Legislature, the department may issue a
626 certificate of need to a rehabilitation hospital in Hinds County
627 for the construction of a sixty-bed long-term care nursing
628 facility dedicated to the care and treatment of persons with
629 severe disabilities including persons with spinal cord and
630 closed-head injuries and ventilator-dependent patients. The
631 provision of Section 41-7-193(1) regarding substantial compliance
632 with projection of need as reported in the current State Health
633 Plan is hereby waived for the purpose of this paragraph.

634 (cc) The State Department of Health may issue a
635 certificate of need to a county-owned hospital in the Second
636 Judicial District of Panola County for the conversion of not more
637 than seventy-two (72) hospital beds to nursing facility beds,
638 provided that the recipient of the certificate of need agrees in
639 writing that none of the beds at the nursing facility will be
640 certified for participation in the Medicaid program (Section
641 43-13-101 et seq.), and that no claim will be submitted for
642 Medicaid reimbursement in the nursing facility in any day or for
643 any patient in the nursing facility. This written agreement by
644 the recipient of the certificate of need shall be a condition of
645 the issuance of the certificate of need under this paragraph, and
646 the agreement shall be fully binding on any subsequent owner of
647 the nursing facility if the ownership of the nursing facility is
648 transferred at any time after the issuance of the certificate of

649 need. After this written agreement is executed, the Division of
650 Medicaid and the State Department of Health shall not certify any
651 of the beds in the nursing facility for participation in the
652 Medicaid program. If the nursing facility violates the terms of
653 the written agreement by admitting or keeping in the nursing
654 facility on a regular or continuing basis any patients who are
655 participating in the Medicaid program, the State Department of
656 Health shall revoke the license of the nursing facility, at the
657 time that the department determines, after a hearing complying
658 with due process, that the nursing facility has violated the
659 condition upon which the certificate of need was issued, as
660 provided in this paragraph and in the written agreement. If the
661 certificate of need authorized under this paragraph is not issued
662 within twelve (12) months after July 1, 1998, the department shall
663 deny the application for the certificate of need and shall not
664 issue the certificate of need at any time after the twelve-month
665 period, unless the issuance is contested. If the certificate of
666 need is issued and substantial construction of the nursing
667 facility beds has not commenced within eighteen (18) months after
668 July 1, 1998, the State Department of Health, after a hearing
669 complying with due process, shall revoke the certificate of need
670 if it is still outstanding, and the department shall not issue a
671 license for the nursing facility at any time after the
672 eighteen-month period. Provided, however, that if the issuance of
673 the certificate of need is contested, the department shall require
674 substantial construction of the nursing facility beds within six
675 (6) months after final adjudication on the issuance of the
676 certificate of need.

677 (dd) The department may issue a certificate of need for
678 the new construction, addition or conversion of skilled nursing
679 facility beds in Madison County, provided that the recipient of
680 the certificate of need agrees in writing that the skilled nursing
681 facility will not at any time participate in the Medicaid program
682 (Section 43-13-101 et seq.) or admit or keep any patients in the

683 skilled nursing facility who are participating in the Medicaid
684 program. This written agreement by the recipient of the
685 certificate of need shall be fully binding on any subsequent owner
686 of the skilled nursing facility, if the ownership of the facility
687 is transferred at any time after the issuance of the certificate
688 of need. Agreement that the skilled nursing facility will not
689 participate in the Medicaid program shall be a condition of the
690 issuance of a certificate of need to any person under this
691 paragraph (dd), and if such skilled nursing facility at any time
692 after the issuance of the certificate of need, regardless of the
693 ownership of the facility, participates in the Medicaid program or
694 admits or keeps any patients in the facility who are participating
695 in the Medicaid program, the State Department of Health shall
696 revoke the certificate of need, if it is still outstanding, and
697 shall deny or revoke the license of the skilled nursing facility,
698 at the time that the department determines, after a hearing
699 complying with due process, that the facility has failed to comply
700 with any of the conditions upon which the certificate of need was
701 issued, as provided in this paragraph and in the written agreement
702 by the recipient of the certificate of need. The total number of
703 nursing facility beds that may be authorized by any certificate of
704 need issued under this paragraph (dd) shall not exceed sixty (60)
705 beds. If the certificate of need authorized under this paragraph
706 is not issued within twelve (12) months after July 1, 1998, the
707 department shall deny the application for the certificate of need
708 and shall not issue the certificate of need at any time after the
709 twelve-month period, unless the issuance is contested. If the
710 certificate of need is issued and substantial construction of the
711 nursing facility beds has not commenced within eighteen (18)
712 months after July 1, 1998, the State Department of Health, after a
713 hearing complying with due process, shall revoke the certificate
714 of need if it is still outstanding, and the department shall not
715 issue a license for the nursing facility at any time after the
716 eighteen-month period. Provided, however, that if the issuance of

717 the certificate of need is contested, the department shall require
718 substantial construction of the nursing facility beds within six
719 (6) months after final adjudication on the issuance of the
720 certificate of need.

721 (ee) The department may issue a certificate of need for
722 the new construction, addition or conversion of skilled nursing
723 facility beds in Leake County, provided that the recipient of the
724 certificate of need agrees in writing that the skilled nursing
725 facility will not at any time participate in the Medicaid program
726 (Section 43-13-101 et seq.) or admit or keep any patients in the
727 skilled nursing facility who are participating in the Medicaid
728 program. This written agreement by the recipient of the
729 certificate of need shall be fully binding on any subsequent owner
730 of the skilled nursing facility, if the ownership of the facility
731 is transferred at any time after the issuance of the certificate
732 of need. Agreement that the skilled nursing facility will not
733 participate in the Medicaid program shall be a condition of the
734 issuance of a certificate of need to any person under this
735 paragraph (ee), and if such skilled nursing facility at any time
736 after the issuance of the certificate of need, regardless of the
737 ownership of the facility, participates in the Medicaid program or
738 admits or keeps any patients in the facility who are participating
739 in the Medicaid program, the State Department of Health shall
740 revoke the certificate of need, if it is still outstanding, and
741 shall deny or revoke the license of the skilled nursing facility,
742 at the time that the department determines, after a hearing
743 complying with due process, that the facility has failed to comply
744 with any of the conditions upon which the certificate of need was
745 issued, as provided in this paragraph and in the written agreement
746 by the recipient of the certificate of need. The total number of
747 nursing facility beds that may be authorized by any certificate of
748 need issued under this paragraph (ee) shall not exceed sixty (60)
749 beds. If the certificate of need authorized under this paragraph
750 is not issued within twelve (12) months after July 1, 1998, the

751 department shall deny the application for the certificate of need
752 and shall not issue the certificate of need at any time after the
753 twelve-month period, unless the issuance is contested. If the
754 certificate of need is issued and substantial construction of the
755 nursing facility beds has not commenced within eighteen (18)
756 months after July 1, 1998, the State Department of Health, after a
757 hearing complying with due process, shall revoke the certificate
758 of need if it is still outstanding, and the department shall not
759 issue a license for the nursing facility at any time after the
760 eighteen-month period. Provided, however, that if the issuance of
761 the certificate of need is contested, the department shall require
762 substantial construction of the nursing facility beds within six
763 (6) months after final adjudication on the issuance of the
764 certificate of need.

765 (ff) The department may issue a certificate of need for
766 the construction of a municipally-owned nursing facility within
767 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
768 beds, provided that the recipient of the certificate of need
769 agrees in writing that the skilled nursing facility will not at
770 any time participate in the Medicaid program (Section 43-13-101 et
771 seq.) or admit or keep any patients in the skilled nursing
772 facility who are participating in the Medicaid program. This
773 written agreement by the recipient of the certificate of need
774 shall be fully binding on any subsequent owner of the skilled
775 nursing facility, if the ownership of the facility is transferred
776 at any time after the issuance of the certificate of need.

777 Agreement that the skilled nursing facility will not participate
778 in the Medicaid program shall be a condition of the issuance of a
779 certificate of need to any person under this paragraph (ff), and
780 if such skilled nursing facility at any time after the issuance of
781 the certificate of need, regardless of the ownership of the
782 facility, participates in the Medicaid program or admits or keeps
783 any patients in the facility who are participating in the Medicaid
784 program, the State Department of Health shall revoke the

785 certificate of need, if it is still outstanding, and shall deny or
786 revoke the license of the skilled nursing facility, at the time
787 that the department determines, after a hearing complying with due
788 process, that the facility has failed to comply with any of the
789 conditions upon which the certificate of need was issued, as
790 provided in this paragraph and in the written agreement by the
791 recipient of the certificate of need. The provision of Section
792 43-7-193(1) regarding substantial compliance of the projection of
793 need as reported in the current State Health Plan is waived for
794 the purposes of this paragraph. If the certificate of need
795 authorized under this paragraph is not issued within twelve (12)
796 months after July 1, 1998, the department shall deny the
797 application for the certificate of need and shall not issue the
798 certificate of need at any time after the twelve-month period,
799 unless the issuance is contested. If the certificate of need is
800 issued and substantial construction of the nursing facility beds
801 has not commenced within eighteen (18) months after July 1, 1998,
802 the State Department of Health, after a hearing complying with due
803 process, shall revoke the certificate of need if it is still
804 outstanding, and the department shall not issue a license for the
805 nursing facility at any time after the eighteen-month period.
806 Provided, however, that if the issuance of the certificate of need
807 is contested, the department shall require substantial
808 construction of the nursing facility beds within six (6) months
809 after final adjudication on the issuance of the certificate of
810 need.

811 (3) If the holder of the certificate of need that was issued
812 before January 1, 1990, for the construction of a nursing home in
813 Claiborne County has not substantially undertaken commencement of
814 construction by completing site works and pouring foundations and
815 the floor slab of a nursing home in Claiborne County before May 1,
816 1990, as determined by the department, then the department shall
817 transfer such certificate of need to the Board of Supervisors of
818 Claiborne County upon the effective date of this subsection (3).

819 If the certificate of need is transferred to the board of
820 supervisors, it shall be valid for a period of twelve (12) months
821 and shall authorize the construction of a sixty-bed nursing home
822 on county-owned property or the conversion of vacant hospital beds
823 in the county hospital not to exceed sixty (60) beds.

824 (4) The State Department of Health may grant approval for
825 and issue certificates of need to any person proposing the new
826 construction of, addition to, conversion of beds of or expansion
827 of any health care facility defined in subparagraph (x)
828 (psychiatric residential treatment facility) of Section
829 41-7-173(h). The total number of beds which may be authorized by
830 such certificates of need shall not exceed two hundred
831 seventy-four (274) beds for the entire state.

832 (a) Of the total number of beds authorized under this
833 subsection, the department shall issue a certificate of need to a
834 privately owned psychiatric residential treatment facility in
835 Simpson County for the conversion of sixteen (16) intermediate
836 care facility for the mentally retarded (ICF-MR) beds to
837 psychiatric residential treatment facility beds, provided that
838 facility agrees in writing that the facility shall give priority
839 for the use of those sixteen (16) beds to Mississippi residents
840 who are presently being treated in out-of-state facilities.

841 (b) Of the total number of beds authorized under this
842 subsection, the department may issue a certificate or certificates
843 of need for the construction or expansion of psychiatric
844 residential treatment facility beds or the conversion of other
845 beds to psychiatric residential treatment facility beds in Warren
846 County, not to exceed sixty (60) psychiatric residential treatment
847 facility beds, provided that the facility agrees in writing that
848 no more than thirty (30) of the beds at the psychiatric
849 residential treatment facility will be certified for participation
850 in the Medicaid program (Section 43-13-101 et seq.) for the use of
851 any patients other than those who are participating only in the
852 Medicaid program of another state, and that no claim will be

853 submitted to the Division of Medicaid for Medicaid reimbursement
854 for more than thirty (30) patients in the psychiatric residential
855 treatment facility in any day or for any patient in the
856 psychiatric residential treatment facility who is in a bed that is
857 not Medicaid-certified. This written agreement by the recipient
858 of the certificate of need shall be a condition of the issuance of
859 the certificate of need under this paragraph, and the agreement
860 shall be fully binding on any subsequent owner of the psychiatric
861 residential treatment facility if the ownership of the facility is
862 transferred at any time after the issuance of the certificate of
863 need. After this written agreement is executed, the Division of
864 Medicaid and the State Department of Health shall not certify more
865 than thirty (30) of the beds in the psychiatric residential
866 treatment facility for participation in the Medicaid program for
867 the use of any patients other than those who are participating
868 only in the Medicaid program of another state. If the psychiatric
869 residential treatment facility violates the terms of the written
870 agreement by admitting or keeping in the facility on a regular or
871 continuing basis more than thirty (30) patients who are
872 participating in the Mississippi Medicaid program, the State
873 Department of Health shall revoke the license of the facility, at
874 the time that the department determines, after a hearing complying
875 with due process, that the facility has violated the condition
876 upon which the certificate of need was issued, as provided in this
877 paragraph and in the written agreement.

878 (c) Of the total number of beds authorized under this
879 subsection, the department shall issue a certificate of need to a
880 hospital currently operating Medicaid-certified acute psychiatric
881 beds for adolescents in DeSoto County, for the establishment of a
882 forty-bed psychiatric residential treatment facility in DeSoto
883 County, provided that the hospital agrees in writing (i) that the
884 hospital shall give priority for the use of those forty (40) beds
885 to Mississippi residents who are presently being treated in
886 out-of-state facilities, and (ii) that no more than fifteen (15)

887 of the beds at the psychiatric residential treatment facility will
888 be certified for participation in the Medicaid program (Section
889 43-13-101 et seq.), and that no claim will be submitted for
890 Medicaid reimbursement for more than fifteen (15) patients in the
891 psychiatric residential treatment facility in any day or for any
892 patient in the psychiatric residential treatment facility who is
893 in a bed that is not Medicaid-certified. This written agreement
894 by the recipient of the certificate of need shall be a condition
895 of the issuance of the certificate of need under this paragraph,
896 and the agreement shall be fully binding on any subsequent owner
897 of the psychiatric residential treatment facility if the ownership
898 of the facility is transferred at any time after the issuance of
899 the certificate of need. After this written agreement is
900 executed, the Division of Medicaid and the State Department of
901 Health shall not certify more than fifteen (15) of the beds in the
902 psychiatric residential treatment facility for participation in
903 the Medicaid program. If the psychiatric residential treatment
904 facility violates the terms of the written agreement by admitting
905 or keeping in the facility on a regular or continuing basis more
906 than fifteen (15) patients who are participating in the Medicaid
907 program, the State Department of Health shall revoke the license
908 of the facility, at the time that the department determines, after
909 a hearing complying with due process, that the facility has
910 violated the condition upon which the certificate of need was
911 issued, as provided in this paragraph and in the written
912 agreement.

913 (d) Of the total number of beds authorized under this
914 subsection, the department may issue a certificate or certificates
915 of need for the construction or expansion of psychiatric
916 residential treatment facility beds or the conversion of other
917 beds to psychiatric treatment facility beds, not to exceed thirty
918 (30) psychiatric residential treatment facility beds, in either
919 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
920 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

921 (e) Of the total number of beds authorized under this
922 subsection (4) the department shall issue a certificate of need to
923 a privately owned, nonprofit psychiatric residential treatment
924 facility in Hinds County for an eight-bed expansion of the
925 facility, provided that the facility agrees in writing that the
926 facility shall give priority for the use of those eight (8) beds
927 to Mississippi residents who are presently being treated in
928 out-of-state facilities.

929 (5) (a) From and after July 1, 1993, the department shall
930 not issue a certificate of need to any person for the new
931 construction of any hospital, psychiatric hospital or chemical
932 dependency hospital that will contain any child/adolescent
933 psychiatric or child/adolescent chemical dependency beds, or for
934 the conversion of any other health care facility to a hospital,
935 psychiatric hospital or chemical dependency hospital that will
936 contain any child/adolescent psychiatric or child/adolescent
937 chemical dependency beds, or for the addition of any
938 child/adolescent psychiatric or child/adolescent chemical
939 dependency beds in any hospital, psychiatric hospital or chemical
940 dependency hospital, or for the conversion of any beds of another
941 category in any hospital, psychiatric hospital or chemical
942 dependency hospital to child/adolescent psychiatric or
943 child/adolescent chemical dependency beds, except as hereinafter
944 authorized:

945 (i) The department may issue certificates of need
946 to any person for any purpose described in this subsection,
947 provided that the hospital, psychiatric hospital or chemical
948 dependency hospital does not participate in the Medicaid program
949 (Section 43-13-101 et seq.) at the time of the application for the
950 certificate of need and the owner of the hospital, psychiatric
951 hospital or chemical dependency hospital agrees in writing that
952 the hospital, psychiatric hospital or chemical dependency hospital
953 will not at any time participate in the Medicaid program or admit
954 or keep any patients who are participating in the Medicaid program

955 in the hospital, psychiatric hospital or chemical dependency
956 hospital. This written agreement by the recipient of the
957 certificate of need shall be fully binding on any subsequent owner
958 of the hospital, psychiatric hospital or chemical dependency
959 hospital, if the ownership of the facility is transferred at any
960 time after the issuance of the certificate of need. Agreement
961 that the hospital, psychiatric hospital or chemical dependency
962 hospital will not participate in the Medicaid program shall be a
963 condition of the issuance of a certificate of need to any person
964 under this subparagraph (a)(i), and if such hospital, psychiatric
965 hospital or chemical dependency hospital at any time after the
966 issuance of the certificate of need, regardless of the ownership
967 of the facility, participates in the Medicaid program or admits or
968 keeps any patients in the hospital, psychiatric hospital or
969 chemical dependency hospital who are participating in the Medicaid
970 program, the State Department of Health shall revoke the
971 certificate of need, if it is still outstanding, and shall deny or
972 revoke the license of the hospital, psychiatric hospital or
973 chemical dependency hospital, at the time that the department
974 determines, after a hearing complying with due process, that the
975 hospital, psychiatric hospital or chemical dependency hospital has
976 failed to comply with any of the conditions upon which the
977 certificate of need was issued, as provided in this subparagraph
978 and in the written agreement by the recipient of the certificate
979 of need.

980 (ii) The department may issue a certificate of
981 need for the conversion of existing beds in a county hospital in
982 Choctaw County from acute care beds to child/adolescent chemical
983 dependency beds. For purposes of this paragraph, the provisions
984 of Section 41-7-193(1) requiring substantial compliance with the
985 projection of need as reported in the current State Health Plan is
986 waived. The total number of beds that may be authorized under
987 authority of this paragraph shall not exceed twenty (20) beds.

988 There shall be no prohibition or restrictions on participation in

989 the Medicaid program (Section 43-13-101 et seq.) for the hospital
990 receiving the certificate of need authorized under this
991 subparagraph (a)(ii) or for the beds converted pursuant to the
992 authority of that certificate of need.

993 (iii) The department may issue a certificate or
994 certificates of need for the construction or expansion of
995 child/adolescent psychiatric beds or the conversion of other beds
996 to child/adolescent psychiatric beds in Warren County. For
997 purposes of this subparagraph, the provisions of Section
998 41-7-193(1) requiring substantial compliance with the projection
999 of need as reported in the current State Health Plan are waived.
1000 The total number of beds that may be authorized under the
1001 authority of this subparagraph shall not exceed twenty (20) beds.

1002 There shall be no prohibition or restrictions on participation in
1003 the Medicaid program (Section 43-13-101 et seq.) for the person
1004 receiving the certificate of need authorized under this
1005 subparagraph (a)(iii) or for the beds converted pursuant to the
1006 authority of that certificate of need.

1007 (iv) The department shall issue a certificate of
1008 need to the Region 7 Mental Health/Retardation Commission for the
1009 construction or expansion of child/adolescent psychiatric beds or
1010 the conversion of other beds to child/adolescent psychiatric beds
1011 in any of the counties served by the commission. For purposes of
1012 this subparagraph, the provisions of Section 41-7-193(1) requiring
1013 substantial compliance with the projection of need as reported in
1014 the current State Health Plan is waived. The total number of beds
1015 that may be authorized under the authority of this subparagraph
1016 shall not exceed twenty (20) beds. There shall be no prohibition
1017 or restrictions on participation in the Medicaid program (Section
1018 43-13-101 et seq.) for the person receiving the certificate of
1019 need authorized under this subparagraph (a)(iv) or for the beds
1020 converted pursuant to the authority of that certificate of need.

1021 (v) The department may issue a certificate of need
1022 to any county hospital located in Leflore County for the

1023 construction or expansion of adult psychiatric beds or the
1024 conversion of other beds to adult psychiatric beds, not to exceed
1025 twenty (20) beds, provided that the recipient of the certificate
1026 of need agrees in writing that the adult psychiatric beds will not
1027 at any time be certified for participation in the Medicaid program
1028 and that the hospital will not admit or keep any patients who are
1029 participating in the Medicaid program in any of such adult
1030 psychiatric beds. This written agreement by the recipient of the
1031 certificate of need shall be fully binding on any subsequent owner
1032 of the hospital if the ownership of the hospital is transferred at
1033 any time after the issuance of the certificate of need. Agreement
1034 that the adult psychiatric beds will not be certified for
1035 participation in the Medicaid program shall be a condition of the
1036 issuance of a certificate of need to any person under this
1037 subparagraph (a)(v), and if such hospital at any time after the
1038 issuance of the certificate of need, regardless of the ownership
1039 of the hospital, has any of such adult psychiatric beds certified
1040 for participation in the Medicaid program or admits or keeps any
1041 Medicaid patients in such adult psychiatric beds, the State
1042 Department of Health shall revoke the certificate of need, if it
1043 is still outstanding, and shall deny or revoke the license of the
1044 hospital at the time that the department determines, after a
1045 hearing complying with due process, that the hospital has failed
1046 to comply with any of the conditions upon which the certificate of
1047 need was issued, as provided in this subparagraph and in the
1048 written agreement by the recipient of the certificate of need.

1049 (b) From and after July 1, 1990, no hospital,
1050 psychiatric hospital or chemical dependency hospital shall be
1051 authorized to add any child/adolescent psychiatric or
1052 child/adolescent chemical dependency beds or convert any beds of
1053 another category to child/adolescent psychiatric or
1054 child/adolescent chemical dependency beds without a certificate of
1055 need under the authority of subsection (1)(c) of this section.

1056 (6) The department may issue a certificate of need to a

1057 county hospital in Winston County for the conversion of fifteen
1058 (15) acute care beds to geriatric psychiatric care beds.

1059 (7) The State Department of Health shall issue a certificate
1060 of need to a Mississippi corporation qualified to manage a
1061 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1062 Harrison County, not to exceed eighty (80) beds, including any
1063 necessary renovation or construction required for licensure and
1064 certification, provided that the recipient of the certificate of
1065 need agrees in writing that the long-term care hospital will not
1066 at any time participate in the Medicaid program (Section 43-13-101
1067 et seq.) or admit or keep any patients in the long-term care
1068 hospital who are participating in the Medicaid program. This
1069 written agreement by the recipient of the certificate of need
1070 shall be fully binding on any subsequent owner of the long-term
1071 care hospital, if the ownership of the facility is transferred at
1072 any time after the issuance of the certificate of need. Agreement
1073 that the long-term care hospital will not participate in the
1074 Medicaid program shall be a condition of the issuance of a
1075 certificate of need to any person under this subsection (7), and
1076 if such long-term care hospital at any time after the issuance of
1077 the certificate of need, regardless of the ownership of the
1078 facility, participates in the Medicaid program or admits or keeps
1079 any patients in the facility who are participating in the Medicaid
1080 program, the State Department of Health shall revoke the
1081 certificate of need, if it is still outstanding, and shall deny or
1082 revoke the license of the long-term care hospital, at the time
1083 that the department determines, after a hearing complying with due
1084 process, that the facility has failed to comply with any of the
1085 conditions upon which the certificate of need was issued, as
1086 provided in this paragraph and in the written agreement by the
1087 recipient of the certificate of need. For purposes of this
1088 paragraph, the provision of Section 41-7-193(1) requiring
1089 substantial compliance with the projection of need as reported in
1090 the current State Health Plan is hereby waived.

1091 (8) The State Department of Health may issue a certificate
1092 of need to any hospital in the state to utilize a portion of its
1093 beds for the "swing-bed" concept. Any such hospital must be in
1094 conformance with the federal regulations regarding such swing-bed
1095 concept at the time it submits its application for a certificate
1096 of need to the State Department of Health, except that such
1097 hospital may have more licensed beds or a higher average daily
1098 census (ADC) than the maximum number specified in federal
1099 regulations for participation in the swing-bed program. Any
1100 hospital meeting all federal requirements for participation in the
1101 swing-bed program which receives such certificate of need shall
1102 render services provided under the swing-bed concept to any
1103 patient eligible for Medicare (Title XVIII of the Social Security
1104 Act) who is certified by a physician to be in need of such
1105 services, and no such hospital shall permit any patient who is
1106 eligible for both Medicaid and Medicare or eligible only for
1107 Medicaid to stay in the swing beds of the hospital for more than
1108 thirty (30) days per admission unless the hospital receives prior
1109 approval for such patient from the Division of Medicaid, Office of
1110 the Governor. Any hospital having more licensed beds or a higher
1111 average daily census (ADC) than the maximum number specified in
1112 federal regulations for participation in the swing-bed program
1113 which receives such certificate of need shall develop a procedure
1114 to insure that before a patient is allowed to stay in the swing
1115 beds of the hospital, there are no vacant nursing home beds
1116 available for that patient located within a fifty-mile radius of
1117 the hospital. When any such hospital has a patient staying in the
1118 swing beds of the hospital and the hospital receives notice from a
1119 nursing home located within such radius that there is a vacant bed
1120 available for that patient, the hospital shall transfer the
1121 patient to the nursing home within a reasonable time after receipt
1122 of the notice. Any hospital which is subject to the requirements
1123 of the two (2) preceding sentences of this paragraph may be
1124 suspended from participation in the swing-bed program for a

1125 reasonable period of time by the State Department of Health if the
1126 department, after a hearing complying with due process, determines
1127 that the hospital has failed to comply with any of those
1128 requirements.

1129 (9) The Department of Health shall not grant approval for or
1130 issue a certificate of need to any person proposing the new
1131 construction of, addition to or expansion of a health care
1132 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1133 (10) The Department of Health shall not grant approval for
1134 or issue a certificate of need to any person proposing the
1135 establishment of, or expansion of the currently approved territory
1136 of, or the contracting to establish a home office, subunit or
1137 branch office within the space operated as a health care facility
1138 as defined in Section 41-7-173(h)(i) through (viii) by a health
1139 care facility as defined in subparagraph (ix) of Section
1140 41-7-173(h).

1141 (11) Health care facilities owned and/or operated by the
1142 state or its agencies are exempt from the restraints in this
1143 section against issuance of a certificate of need if such addition
1144 or expansion consists of repairing or renovation necessary to
1145 comply with the state licensure law. This exception shall not
1146 apply to the new construction of any building by such state
1147 facility. This exception shall not apply to any health care
1148 facilities owned and/or operated by counties, municipalities,
1149 districts, unincorporated areas, other defined persons, or any
1150 combination thereof.

1151 (12) The new construction, renovation or expansion of or
1152 addition to any health care facility defined in subparagraph (ii)
1153 (psychiatric hospital), subparagraph (iv) (skilled nursing
1154 facility), subparagraph (vi) (intermediate care facility),
1155 subparagraph (viii) (intermediate care facility for the mentally
1156 retarded) and subparagraph (x) (psychiatric residential treatment
1157 facility) of Section 41-7-173(h) which is owned by the State of
1158 Mississippi and under the direction and control of the State

1159 Department of Mental Health, and the addition of new beds or the
1160 conversion of beds from one category to another in any such
1161 defined health care facility which is owned by the State of
1162 Mississippi and under the direction and control of the State
1163 Department of Mental Health, shall not require the issuance of a
1164 certificate of need under Section 41-7-171 et seq.,
1165 notwithstanding any provision in Section 41-7-171 et seq. to the
1166 contrary.

1167 (13) The new construction, renovation or expansion of or
1168 addition to any veterans homes or domiciliaries for eligible
1169 veterans of the State of Mississippi as authorized under Section
1170 35-1-19 shall not require the issuance of a certificate of need,
1171 notwithstanding any provision in Section 41-7-171 et seq. to the
1172 contrary.

1173 (14) The new construction of a nursing facility or nursing
1174 facility beds or the conversion of other beds to nursing facility
1175 beds shall not require the issuance of a certificate of need,
1176 notwithstanding any provision in Section 41-7-171 et seq. to the
1177 contrary, if the conditions of this subsection are met.

1178 (a) Before any construction or conversion may be
1179 undertaken without a certificate of need, the owner of the nursing
1180 facility, in the case of an existing facility, or the applicant to
1181 construct a nursing facility, in the case of new construction,
1182 first must file a written notice of intent and sign a written
1183 agreement with the State Department of Health that the entire
1184 nursing facility will not at any time participate in or have any
1185 beds certified for participation in the Medicaid program (Section
1186 43-13-101 et seq.), will not admit or keep any patients in the
1187 nursing facility who are participating in the Medicaid program,
1188 and will not submit any claim for Medicaid reimbursement for any
1189 patient in the facility. This written agreement by the owner or
1190 applicant shall be a condition of exercising the authority under
1191 this subsection without a certificate of need, and the agreement
1192 shall be fully binding on any subsequent owner of the nursing

1193 facility if the ownership of the facility is transferred at any
1194 time after the agreement is signed. After the written agreement
1195 is signed, the Division of Medicaid and the State Department of
1196 Health shall not certify any beds in the nursing facility for
1197 participation in the Medicaid program. If the nursing facility
1198 violates the terms of the written agreement by participating in
1199 the Medicaid program, having any beds certified for participation
1200 in the Medicaid program, admitting or keeping any patient in the
1201 facility who is participating in the Medicaid program, or
1202 submitting any claim for Medicaid reimbursement for any patient in
1203 the facility, the State Department of Health shall revoke the
1204 license of the nursing facility at the time that the department
1205 determines, after a hearing complying with due process, that the
1206 facility has violated the terms of the written agreement.

1207 (b) For the purposes of this subsection, participation
1208 in the Medicaid program by a nursing facility includes Medicaid
1209 reimbursement of coinsurance and deductibles for recipients who
1210 are qualified Medicare beneficiaries and/or those who are dually
1211 eligible. Any nursing facility exercising the authority under
1212 this subsection may not bill or submit a claim to the Division of
1213 Medicaid for services to qualified Medicare beneficiaries and/or
1214 those who are dually eligible.

1215 (c) * * * Any nursing facility beds authorized by this
1216 subsection will not be counted against the bed need set forth in
1217 the State Health Plan, as identified in Section 41-7-171 et seq.

1218 * * *

1219 SECTION 2. This act shall take effect and be in force from
1220 and after July 1, 1999.