

By: Representative Horne

To: Public Health and  
Welfare;  
Appropriations

HOUSE BILL NO. 175

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE  
3 OF NEED FOR THE CONVERSION OF PERSONAL CARE BEDS TO NURSING HOME  
4 BEDS IN LAUDERDALE COUNTY, NOT TO EXCEED 60 BEDS; AND FOR RELATED  
5 PURPOSES.

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

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

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;

16 (c) A change over a period of two (2) years' time, as  
17 established by the State Department of Health, in existing bed  
18 complement through the addition of more than ten (10) beds or more  
19 than ten percent (10%) of the total bed capacity of a designated  
20 licensed category or subcategory of any health care facility,  
21 whichever is less, from one physical facility or site to another;  
22 the conversion over a period of two (2) years' time, as  
23 established by the State Department of Health, of existing bed  
24 complement of more than ten (10) beds or more than ten percent  
25 (10%) of the total bed capacity of a designated licensed category  
26 or subcategory of any such health care facility, whichever is  
27 less; or the alteration, modernizing or refurbishing of any unit  
28 or department wherein such beds may be located; provided, however,

that from and after July 1, 1994, no health care facility shall be authorized to add any beds or convert any beds to another category of beds without a certificate of need under the authority of subsection (1)(c) of this section unless there is a projected need for such beds in the planning district in which the facility is located, as reported in the most current State Health Plan;

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

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

(e) The relocation of one or more health services from one physical facility or site to another physical facility or site, unless such relocation, which does not involve a capital expenditure by or on behalf of a health care facility, is the result of an order of a court of appropriate jurisdiction or a result of pending litigation in such court, or by order of the State Department of Health, or by order of any other agency or legal entity of the state, the federal government, or any political subdivision of either, whose order is also approved by

67 the State Department of Health;

68 (f) The acquisition or otherwise control of any major  
69 medical equipment for the provision of medical services; provided,  
70 however, that the acquisition of any major medical equipment used  
71 only for research purposes shall be exempt from this paragraph; an  
72 acquisition for less than fair market value must be reviewed, if  
73 the acquisition at fair market value would be subject to review;

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

82 (h) The change of ownership of any health care facility  
83 defined in subparagraphs (iv), (vi) and (viii) of Section  
84 41-7-173(h), in which a notice of intent as described in paragraph  
85 (g) has not been filed and if the Executive Director, Division of  
86 Medicaid, Office of the Governor, has not certified in writing  
87 that there will be no increase in allowable costs to Medicaid from  
88 revaluation of the assets or from increased interest and  
89 depreciation as a result of the proposed change of ownership;

90 (i) Any activity described in paragraphs (a) through  
91 (h) if undertaken by any person if that same activity would  
92 require certificate of need approval if undertaken by a health  
93 care facility;

94 (j) Any capital expenditure or deferred capital  
95 expenditure by or on behalf of a health care facility not covered  
96 by paragraphs (a) through (h);

97 (k) The contracting of a health care facility as  
98 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
99 to establish a home office, subunit, or branch office in the space  
100 operated as a health care facility through a formal arrangement

with an existing health care facility as defined in subparagraph (ix) of Section 41-7-173(h).

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

(a) The total number of nursing home beds as defined in subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be authorized by such certificates of need issued during the period beginning on July 1, 1989, and ending on June 30, 2000, shall not exceed one thousand five hundred thirty (1,530) beds. The number of nursing home beds authorized under paragraphs (z), (cc), (dd), (ee) and (ff) of this subsection (2) shall not be counted in the limit on the total number of beds provided for in this paragraph (a).

(b) The department may issue a certificate of need to any of the hospitals in the state which have a distinct part component of the hospital that was constructed for extended care use (nursing home care) but is not currently licensed to provide nursing home care, which certificate of need will authorize the distinct part component to be operated to provide nursing home care after a license is obtained. The six (6) hospitals which currently have these distinct part components and which are eligible for a certificate of need under this section are: Webster General Hospital in Webster County, Tippah County General Hospital in Tippah County, Tishomingo County Hospital in Tishomingo County, North Sunflower County Hospital in Sunflower County, H.C. Watkins Hospital in Clarke County and Northwest Regional Medical Center in Coahoma County. Because the facilities to be considered currently exist and no new construction is required, the provision of Section 41-7-193(1) regarding

substantial compliance with the projection of need as reported in the 1989 State Health Plan is waived. The total number of nursing home care beds that may be authorized by certificates of need issued under this paragraph shall not exceed one hundred fifty-four (154) beds.

(c) The department may issue a certificate of need to any person proposing the new construction of any health care facility defined in subparagraphs (iv) and (vi) of Section 41-7-173(h) as part of a life care retirement facility, in any county bordering on the Gulf of Mexico in which is located a National Aeronautics and Space Administration facility, not to exceed forty (40) beds, provided that the owner of the health care facility on July 1, 1994, agrees in writing that no more than twenty (20) of the beds in the health care facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than twenty (20) patients in the health care facility in any day or for any patient in the health care facility who is in a bed that is not Medicaid-certified. This written agreement by the owner of the health care facility on July 1, 1994, shall be fully binding on any subsequent owner of the health care facility if the ownership of the health care facility is transferred at any time after July 1, 1994. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than twenty (20) of the beds in the health care facility for participation in the Medicaid program. If the health care facility violates the terms of the written agreement by admitting or keeping in the health care facility on a regular or continuing basis more than twenty (20) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the health care facility, at the time that the department determines, after a hearing complying with due process, that the health care facility has violated the terms of the written

169 agreement as provided in this paragraph.

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

182           (e) The department may issue a certificate of need for  
183 the conversion of existing hospital beds to provide nursing home  
184 care in a county hospital in Jasper County that has its own  
185 licensed nursing home located adjacent to the hospital. The total  
186 number of nursing home care beds that may be authorized by any  
187 certificate of need issued under this paragraph shall not exceed  
188 twenty (20) beds.

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

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

198           (h) Provided all criteria specified in the 1989 State  
199 Health Plan are met and the proposed nursing home is within no  
200 more than a fifteen (15) minute transportation time to an existing  
201 hospital, the department may issue a certificate of need for the  
202 construction of one (1) sixty-bed nursing home in Benton County.

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

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

(k) The department may issue certificates of need in Harrison County to provide skilled nursing home care for Alzheimer's Disease patients and other patients, not to exceed one hundred fifty (150) beds, provided that (i) the owner of the health care facility issued a certificate of need for sixty (60) beds agrees in writing that no more than thirty (30) of the beds in the health care facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), (ii) the owner of one (1) of the health care facilities issued a certificate of need for forty-five (45) beds agrees in writing that no more than twenty-three (23) of the beds in the health care facility will be certified for participation in the Medicaid program, and (iii) the owner of the other health care facility issued a certificate of need for forty-five (45) beds agrees in writing that no more than twenty-two (22) of the beds in the health care facility will be certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for a number of patients in the health care facility in any day that is greater than the number of beds certified for participation in the Medicaid program or for any patient in the health care facility who is in a bed that is not Medicaid-certified. These written agreements by the owners of the health care facilities on July 1, 1995, shall be fully binding on any subsequent owner of any of the health care facilities if the ownership of any of the health care

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

252           (1) The department may issue certificates of need for  
253 the new construction of, addition to, or expansion of any skilled  
254 nursing facility or intermediate care facility in Jackson County,  
255 not to exceed a total of sixty (60) beds.

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

262           (n) The department may issue a certificate of need to  
263 any intermediate care facility as defined in Section  
264 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)  
265 beds, for making additions to or expansion or replacement of the  
266 existing facility in order to increase the number of its beds to  
267 not more than sixty (60) beds. For the purposes of this  
268 paragraph, the provision of Section 41-7-193(1) requiring  
269 substantial compliance with the projection of need as reported in  
270 the current State Health Plan is waived. The total number of



nursing home beds that may be authorized by any certificate of need issued under this paragraph shall not exceed twenty-five (25) beds.

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

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

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

(r) The department may issue a certificate of need for the addition to or expansion of any skilled nursing facility that is part of an existing continuing care retirement community located in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate

of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (r), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (r) shall not exceed sixty (60) beds.

(s) The State Department of Health may issue a certificate of need to any hospital located in DeSoto County for the new construction of a skilled nursing facility, not to exceed one hundred twenty (120) beds, in DeSoto County, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds in the skilled nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the facility in any day or for any patient in the facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the skilled nursing facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division

of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the skilled nursing facility for participation in the Medicaid program. If the skilled nursing facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the facility at any time after the expiration of the eighteen-month period.

(t) The State Department of Health may issue a certificate of need for the construction of a nursing facility or the conversion of beds to nursing facility beds at a personal care facility for the elderly in Lowndes County that is owned and operated by a Mississippi nonprofit corporation, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the facility in any month or for any patient in the facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the facility if the ownership of the

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

394 (u) The State Department of Health may issue a  
395 certificate of need for conversion of a county hospital facility  
396 in Itawamba County to a nursing facility, not to exceed sixty (60)  
397 beds, including any necessary construction, renovation or  
398 expansion, provided that the recipient of the certificate of need  
399 agrees in writing that no more than thirty (30) of the beds at the  
400 facility will be certified for participation in the Medicaid  
401 program (Section 43-13-101 et seq.), and that no claim will be  
402 submitted for Medicaid reimbursement for more than thirty (30)  
403 patients in the facility in any day or for any patient in the  
404 facility who is in a bed that is not Medicaid-certified. This  
405 written agreement by the recipient of the certificate of need  
406 shall be a condition of the issuance of the certificate of need

under this paragraph, and the agreement shall be fully binding on any subsequent owner of the facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the beds authorized by the certificate of need issued under this paragraph are not converted to nursing facility beds and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the facility at any time after the expiration of the eighteen-month period.

(v) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hinds, Madison or Rankin Counties, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the nursing facility in any day or for any patient in the nursing facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of

the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by admitting or keeping in the nursing facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the nursing facility or nursing facility beds authorized by the certificate of need issued under this paragraph are not constructed, expanded or converted and fully operational within thirty-six (36) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the nursing facility or nursing facility beds at any time after the expiration of the thirty-six-month period.

(w) The State Department of Health may issue a certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hancock, Harrison or Jackson Counties, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.),

and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the nursing facility in any day or for any patient in the nursing facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by admitting or keeping in the nursing facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the nursing facility or nursing facility beds authorized by the certificate of need issued under this paragraph are not constructed, expanded or converted and fully operational within thirty-six (36) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the nursing facility or nursing facility beds at any time after the expiration of the thirty-six-month period.

(x) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at

any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (x), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (x) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the skilled nursing facility at any time after the expiration of the eighteen-month



543 period.

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

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

or keeping in the nursing facility on a regular or continuing basis a number of patients who are participating in the Medicaid program that is greater than the number of licensed beds in the facility on July 1, 1995, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. For the purposes of this paragraph (z), the provision of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived.

(aa) The department may issue a certificate of need for the construction of a nursing facility at a continuing care retirement community in Lowndes County, provided that the recipient of the certificate of need agrees in writing that the nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (aa), and if such nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process,

that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (aa) shall not exceed sixty (60) beds.

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

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

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

670 (dd) The department may issue a certificate of need for  
671 the new construction, addition or conversion of skilled nursing  
672 facility beds in Madison County, provided that the recipient of  
673 the certificate of need agrees in writing that the skilled nursing  
674 facility will not at any time participate in the Medicaid program  
675 (Section 43-13-101 et seq.) or admit or keep any patients in the  
676 skilled nursing facility who are participating in the Medicaid  
677 program. This written agreement by the recipient of the  
678 certificate of need shall be fully binding on any subsequent owner

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

713 certificate of need.

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

certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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

Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (ff), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due

process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(qq) The department may issue a certificate of need for the conversion to nursing home beds of existing personal care beds in Lauderdale County that were constructed for extended care use (nursing home) but are not currently licensed to provide nursing home care. The total number of nursing home beds that may be authorized by any certificate of need issued under this paragraph shall not exceed sixty (60) beds.

(3) If the holder of the certificate of need that was issued before January 1, 1990, for the construction of a nursing home in Claiborne County has not substantially undertaken commencement of construction by completing site works and pouring foundations and



the floor slab of a nursing home in Claiborne County before May 1, 1990, as determined by the department, then the department shall transfer such certificate of need to the Board of Supervisors of Claiborne County upon the effective date of this subsection (3). If the certificate of need is transferred to the board of supervisors, it shall be valid for a period of twelve (12) months and shall authorize the construction of a sixty-bed nursing home on county-owned property or the conversion of vacant hospital beds in the county hospital not to exceed sixty (60) beds.

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

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

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric

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

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto

County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

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

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

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

(5) (a) From and after July 1, 1993, the department shall not issue a certificate of need to any person for the new construction of any hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

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

hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital will not at any time participate in the Medicaid program or admit or keep any patients who are participating in the Medicaid program in the hospital, psychiatric hospital or chemical dependency hospital. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital, psychiatric hospital or chemical dependency hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the hospital, psychiatric hospital or chemical dependency hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (a)(i), and if such hospital, psychiatric hospital or chemical dependency hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the hospital, psychiatric hospital or chemical dependency hospital who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital, psychiatric hospital or chemical dependency hospital, at the time that the department determines, after a hearing complying with due process, that the hospital, psychiatric hospital or chemical dependency hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.

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

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

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

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

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

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

need authorized under this subparagraph (a)(iv) or for the beds converted pursuant to the authority of that certificate of need.

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (a)(v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital at the time that the department determines, after a hearing complying with due process, that the hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.

(b) From and after July 1, 1990, no hospital, psychiatric hospital or chemical dependency hospital shall be authorized to add any child/adolescent psychiatric or child/adolescent chemical dependency beds or convert any beds of

another category to child/adolescent psychiatric or child/adolescent chemical dependency beds without a certificate of need under the authority of subsection (1)(c) of this section.

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

(7) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (7), and if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term care hospital, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as 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),

subparagraph (viii) (intermediate care facility for the mentally retarded) and subparagraph (x) (psychiatric residential treatment facility) of Section 41-7-173(h) which is owned by the State of Mississippi and under the direction and control of the State Department of Mental Health, and the addition of new beds or the conversion of beds from one category to another in any such defined health care facility which is owned by the State of Mississippi and under the direction and control of the State Department of Mental Health, shall not require the issuance of a certificate of need under Section 41-7-171 et seq., notwithstanding any provision in Section 41-7-171 et seq. to the contrary.

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

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

(a) Before any construction or conversion may be undertaken without a certificate of need, the owner of the nursing facility, in the case of an existing facility, or the applicant to construct a nursing facility, in the case of new construction, first must file a written notice of intent and sign a written agreement with the State Department of Health that the entire nursing facility will not at any time participate in or have any beds certified for participation in the Medicaid program (Section 43-13-101 et seq.), will not admit or keep any patients in the nursing facility who are participating in the Medicaid program, 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) The new construction of a nursing facility or  
1216 nursing facility beds or the conversion of other beds to nursing  
1217 facility beds described in this section must be either a part of a  
1218 completely new continuing care retirement community, as described  
1219 in the latest edition of the Mississippi State Health Plan, or an  
1220 addition to existing personal care and independent living  
1221 components, and so that the completed project will be a continuing  
1222 care retirement community, containing (i) independent living

1223 accommodations, (ii) personal care beds, and (iii) the nursing  
1224 home facility beds. The three (3) components must be located on a  
1225 single site and be operated as one (1) inseparable facility. The  
1226 nursing facility component must contain a minimum of thirty (30)  
1227 beds. Any nursing facility beds authorized by this section will  
1228 not be counted against the bed need set forth in the State Health  
1229 Plan, as identified in Section 41-7-171, et seq.

1230         This subsection (14) shall stand repealed from and after July  
1231 1, 2001.

1232         SECTION 2. This act shall take effect and be in force from  
1233 and after July 1, 1999.