By: Representative Horne

To: Public Health and Welfare;

Appropriations

HOUSE BILL NO. 175

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

- BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI: 6
- 7 SECTION 1. Section 41-7-191, Mississippi Code of 1972, is
- amended as follows:
- 41-7-191. (1) No person shall engage in any of the 9
- following activities without obtaining the required certificate of 10
- 11 need:
- (a) The construction, development or other 12
- establishment of a new health care facility; 13
- 14 The relocation of a health care facility or portion
- thereof, or major medical equipment; 15
- (c) A change over a period of two (2) years' time, as 16
- established by the State Department of Health, in existing bed 17
- complement through the addition of more than ten (10) beds or more 18
- than ten percent (10%) of the total bed capacity of a designated 19
- licensed category or subcategory of any health care facility, 20
- 21 whichever is less, from one physical facility or site to another;
- the conversion over a period of two (2) years' time, as 22
- established by the State Department of Health, of existing bed 23
- complement of more than ten (10) beds or more than ten percent 2.4
- (10%) of the total bed capacity of a designated licensed category 25
- or subcategory of any such health care facility, whichever is 26
- less; or the alteration, modernizing or refurbishing of any unit 2.7
- 28 or department wherein such beds may be located; provided, however,

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    that from and after July 1, 1994, no health care facility shall be
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    authorized to add any beds or convert any beds to another category
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    of beds without a certificate of need under the authority of
    subsection (1)(c) of this section unless there is a projected need
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    for such beds in the planning district in which the facility is
    located, as reported in the most current State Health Plan;
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                   Offering of the following health services if those
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    services have not been provided on a regular basis by the proposed
    provider of such services within the period of twelve (12) months
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    prior to the time such services would be offered:
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                    (i) Open heart surgery services;
                    (ii) Cardiac catheterization services;
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                    (iii) Comprehensive inpatient rehabilitation
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    services;
                         Licensed psychiatric services;
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                    (iv)
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                    (v) Licensed chemical dependency services;
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                    (vi) Radiation therapy services;
                    (vii) Diagnostic imaging services of an invasive
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    nature, i.e. invasive digital angiography;
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                    (viii)
                          Nursing home care as defined in
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    subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
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                    (ix)
                        Home health services;
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                        Swing-bed services;
                    (x)
                        Ambulatory surgical services;
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                    (xi)
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                    (xii) Magnetic resonance imaging services;
                    (xiii) Extracorporeal shock wave lithotripsy
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    services;
                    (xiv) Long-term care hospital services;
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                    (xv) Positron Emission Tomography (PET) Services;
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                   The relocation of one or more health services from
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    one physical facility or site to another physical facility or
    site, unless such relocation, which does not involve a capital
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    expenditure by or on behalf of a health care facility, is the
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    result of an order of a court of appropriate jurisdiction or a
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    result of pending litigation in such court, or by order of the
    State Department of Health, or by order of any other agency or
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    legal entity of the state, the federal government, or any
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    political subdivision of either, whose order is also approved by
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- 67 the State Department of Health;
- (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).
- 103 (2) The State Department of Health shall not grant approval
- 104 for or issue a certificate of need to any person proposing the new
- 105 construction of, addition to, or expansion of any health care
- 106 facility defined in subparagraphs (iv) (skilled nursing facility)
- 107 and (vi) (intermediate care facility) of Section 41-7-173(h) or
- 108 the conversion of vacant hospital beds to provide skilled or
- 109 intermediate nursing home care, except as hereinafter authorized:
- 110 (a) The total number of nursing home beds as defined in
- 111 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
- 112 authorized by such certificates of need issued during the period
- 113 beginning on July 1, 1989, and ending on June 30, 2000, shall not
- 114 exceed one thousand five hundred thirty (1,530) beds. The number
- of nursing home beds authorized under paragraphs (z), (cc), (dd),
- 116 (ee) and (ff) of this subsection (2) shall not be counted in the
- 117 limit on the total number of beds provided for in this paragraph
- 118 (a).
- 119 (b) The department may issue a certificate of need to
- 120 any of the hospitals in the state which have a distinct part
- 121 component of the hospital that was constructed for extended care
- 122 use (nursing home care) but is not currently licensed to provide
- 123 nursing home care, which certificate of need will authorize the
- 124 distinct part component to be operated to provide nursing home
- 125 care after a license is obtained. The six (6) hospitals which
- 126 currently have these distinct part components and which are
- 127 eligible for a certificate of need under this section are:
- 128 Webster General Hospital in Webster County, Tippah County General
- 129 Hospital in Tippah County, Tishomingo County Hospital in
- 130 Tishomingo County, North Sunflower County Hospital in Sunflower
- 131 County, H.C. Watkins Hospital in Clarke County and Northwest
- 132 Regional Medical Center in Coahoma County. Because the facilities
- 133 to be considered currently exist and no new construction is
- 134 required, the provision of Section 41-7-193(1) regarding

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substantial compliance with the projection of need as reported in
     the 1989 State Health Plan is waived. The total number of nursing
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     home care beds that may be authorized by certificates of need
     issued under this paragraph shall not exceed one hundred
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     fifty-four (154) beds.
                   The department may issue a certificate of need to
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               (C)
     any person proposing the new construction of any health care
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     facility defined in subparagraphs (iv) and (vi) of Section
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     41-7-173(h) as part of a life care retirement facility, in any
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     county bordering on the Gulf of Mexico in which is located a
     National Aeronautics and Space Administration facility, not to
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     exceed forty (40) beds, provided that the owner of the health care
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     facility on July 1, 1994, agrees in writing that no more than
     twenty (20) of the beds in the health care facility will be
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     certified for participation in the Medicaid program (Section
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     43-13-101 et seq.), and that no claim will be submitted for
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     Medicaid reimbursement for more than twenty (20) patients in the
     health care facility in any day or for any patient in the health
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     care facility who is in a bed that is not Medicaid-certified.
     This written agreement by the owner of the health care facility on
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     July 1, 1994, shall be fully binding on any subsequent owner of
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     the health care facility if the ownership of the health care
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     facility is transferred at any time after July 1, 1994.
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     this written agreement is executed, the Division of Medicaid and
     the State Department of Health shall not certify more than twenty
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     (20) of the beds in the health care facility for participation in
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     the Medicaid program. If the health care facility violates the
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     terms of the written agreement by admitting or keeping in the
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     health care facility on a regular or continuing basis more than
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     twenty (20) patients who are participating in the Medicaid
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     program, the State Department of Health shall revoke the license
     of the health care facility, at the time that the department
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     determines, after a hearing complying with due process, that the
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     health care facility has violated the terms of the written
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- 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
- 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
- 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
- (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.
- The department may issue certificates of need in 213 214 Harrison County to provide skilled nursing home care for Alzheimer's Disease patients and other patients, not to exceed one 215 hundred fifty (150) beds, provided that (i) the owner of the 216 217 health care facility issued a certificate of need for sixty (60) 218 beds agrees in writing that no more than thirty (30) of the beds 219 in the health care facility will be certified for participation in 220 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner 221 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 222 223 twenty-three (23) of the beds in the health care facility will be 224 certified for participation in the Medicaid program, and (iii) the 225 owner of the other health care facility issued a certificate of 226 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 227 228 certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for a number of 229 230 patients in the health care facility in any day that is greater 231 than the number of beds certified for participation in the 232 Medicaid program or for any patient in the health care facility 233 who is in a bed that is not Medicaid-certified. These written agreements by the owners of the health care facilities on July 1, 234 235 1995, shall be fully binding on any subsequent owner of any of the 236 health care facilities if the ownership of any of the health care

- 237 facilities is transferred at any time after July 1, 1995. these written agreements are executed, the Division of Medicaid 238 239 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 paragraph (k) for each respective facility. If any of the health 242 243 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
- 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.

health care facility has violated the terms of the written

agreement as provided in this paragraph.

- 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 The department may issue a certificate of need to any intermediate care facility as defined in Section 263 264 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 paragraph, the provision of Section 41-7-193(1) requiring 268 269 substantial compliance with the projection of need as reported in

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- 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.
- 293 (r) The department may issue a certificate of need for 294 the addition to or expansion of any skilled nursing facility that is part of an existing continuing care retirement community 295 296 located in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing 297 298 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 299 300 skilled nursing facility who are participating in the Medicaid 301 program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner 302 303 of the skilled nursing facility, if the ownership of the facility 304 is transferred at any time after the issuance of the certificate

305 of need. Agreement that the skilled nursing facility will not 306 participate in the Medicaid program shall be a condition of the 307 issuance of a certificate of need to any person under this paragraph (r), and if such skilled nursing facility at any time 308 309 after the issuance of the certificate of need, regardless of the 310 ownership of the facility, participates in the Medicaid program or 311 admits or keeps any patients in the facility who are participating 312 in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and 313 314 shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing 315 316 complying with due process, that the facility has failed to comply 317 with any of the conditions upon which the certificate of need was 318 issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of 319 320 beds that may be authorized under the authority of this paragraph 321 (r) shall not exceed sixty (60) beds. (s) The State Department of Health may issue a 322 323 certificate of need to any hospital located in DeSoto County for the new construction of a skilled nursing facility, not to exceed 324 325 one hundred twenty (120) beds, in DeSoto County, provided that the

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 H. B. No. 175

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339 of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the skilled nursing facility 340 341 for participation in the Medicaid program. If the skilled nursing facility violates the terms of the written agreement by admitting 342 343 or keeping in the facility on a regular or continuing basis more 344 than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license 345 346 of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has 347 348 violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written 349 350 agreement. If the skilled nursing facility authorized by the 351 certificate of need issued under this paragraph is not constructed 352 and fully operational within eighteen (18) months after July 1, 353 1994, the State Department of Health, after a hearing complying 354 with due process, shall revoke the certificate of need, if it is 355 still outstanding, and shall not issue a license for the facility at any time after the expiration of the eighteen-month period. 356 357 The State Department of Health may issue a certificate of need for the construction of a nursing facility or 358 359 the conversion of beds to nursing facility beds at a personal care 360 facility for the elderly in Lowndes County that is owned and 361 operated by a Mississippi nonprofit corporation, not to exceed 362 sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds 363 364 at the facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim 365 366 will be submitted for Medicaid reimbursement for more than thirty 367 (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. 368 369 written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need 370 371 under this paragraph, and the agreement shall be fully binding on any subsequent owner of the facility if the ownership of the 372

facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, 374 375 the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for 376 377 participation in the Medicaid program. If the facility violates the terms of the written agreement by admitting or keeping in the 378 379 facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State 380 381 Department of Health shall revoke the license of the facility, at 382 the time that the department determines, after a hearing complying with due process, that the facility has violated the condition 383 384 upon which the certificate of need was issued, as provided in this 385 paragraph and in the written agreement. If the nursing facility or nursing facility beds authorized by the certificate of need 386 387 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 process, shall revoke the certificate of need, if it is still 390 391 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 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) beds, including any necessary construction, renovation or 397 398 expansion, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the 399 400 facility will be certified for participation in the Medicaid 401 program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) 402 403 patients in the facility in any day or for any patient in the facility who is in a bed that is not Medicaid-certified. 404 405 written agreement by the recipient of the certificate of need 406 shall be a condition of the issuance of the certificate of need

any subsequent owner of the facility if the ownership of the 408 409 facility is transferred at any time after the issuance of the 410 certificate of need. After this written agreement is executed, 411 the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for 412 participation in the Medicaid program. If the facility violates 413 414 the terms of the written agreement by admitting or keeping in the 415 facility on a regular or continuing basis more than thirty (30) 416 patients who are participating in the Medicaid program, the State 417 Department of Health shall revoke the license of the facility, at 418 the time that the department determines, after a hearing complying 419 with due process, that the facility has violated the condition 420 upon which the certificate of need was issued, as provided in this 421 paragraph and in the written agreement. If the beds authorized by 422 the certificate of need issued under this paragraph are not 423 converted to nursing facility beds and fully operational within 424 eighteen (18) months after July 1, 1994, the State Department of 425 Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not 426 427 issue a license for the facility at any time after the expiration 428 of the eighteen-month period.

under this paragraph, and the agreement shall be fully binding on

429 The State Department of Health may issue a 430 certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility 431 432 beds in either Hinds, Madison or Rankin Counties, not to exceed sixty (60) beds, provided that the recipient of the certificate of 433 434 need agrees in writing that no more than thirty (30) of the beds 435 at the nursing facility will be certified for participation in the 436 Medicaid program (Section 43-13-101 et seq.), and that no claim 437 will be submitted for Medicaid reimbursement for more than thirty (30) patients in the nursing facility in any day or for any 438 439 patient in the nursing facility who is in a bed that is not 440 Medicaid-certified. This written agreement by the recipient of

441 the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement 442 443 shall be fully binding on any subsequent owner of the nursing facility if the ownership of the nursing facility is transferred 444 445 at any time after the issuance of the certificate of need. this written agreement is executed, the Division of Medicaid and 446 447 the State Department of Health shall not certify more than thirty 448 (30) of the beds in the nursing facility for participation in the 449 Medicaid program. If the nursing facility violates the terms of 450 the written agreement by admitting or keeping in the nursing 451 facility on a regular or continuing basis more than thirty (30) 452 patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing 453 454 facility, at the time that the department determines, after a 455 hearing complying with due process, that the nursing facility has 456 violated the condition upon which the certificate of need was 457 issued, as provided in this paragraph and in the written agreement. If the nursing facility or nursing facility beds 458 459 authorized by the certificate of need issued under this paragraph 460 are not constructed, expanded or converted and fully operational 461 within thirty-six (36) months after July 1, 1994, the State 462 Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, 463 464 and shall not issue a license for the nursing facility or nursing facility beds at any time after the expiration of the 465 466 thirty-six-month period. (w) The State Department of Health may issue a 467 468 certificate of need for the construction or expansion of nursing 469 facility beds or the conversion of other beds to nursing facility beds in either Hancock, Harrison or Jackson Counties, not to 470 471 exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty 472

(30) of the beds at the nursing facility will be certified for

participation in the Medicaid program (Section 43-13-101 et seq.),

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475 and that no claim will be submitted for Medicaid reimbursement for 476 more than thirty (30) patients in the nursing facility in any day 477 or for any patient in the nursing facility who is in a bed that is 478 not Medicaid-certified. This written agreement by the recipient 479 of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement 480 481 shall be fully binding on any subsequent owner of the nursing 482 facility if the ownership of the nursing facility is transferred 483 at any time after the issuance of the certificate of need. 484 this written agreement is executed, the Division of Medicaid and 485 the State Department of Health shall not certify more than thirty 486 (30) of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of 487 488 the written agreement by admitting or keeping in the nursing 489 facility on a regular or continuing basis more than thirty (30) 490 patients who are participating in the Medicaid program, the State 491 Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a 492 493 hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was 494 495 issued, as provided in this paragraph and in the written 496 agreement. If the nursing facility or nursing facility beds 497 authorized by the certificate of need issued under this paragraph 498 are not constructed, expanded or converted and fully operational within thirty-six (36) months after July 1, 1994, the State 499 500 Department of Health, after a hearing complying with due process, 501 shall revoke the certificate of need, if it is still outstanding, 502 and shall not issue a license for the nursing facility or nursing 503 facility beds at any time after the expiration of the 504 thirty-six-month period. 505 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

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

The department may issue a certificate of need in 544 545 Jones County for making additions to or expansion or replacement of an existing forty-bed facility in order to increase the number 546 547 of its beds to not more than sixty (60) beds. For the purposes of this paragraph, the provision of Section 41-7-193(1) requiring 548 549 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 allow any existing freestanding long-term care facility in 555 556 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 of the additional beds authorized by this paragraph (z) at the 560 561 nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim 562 563 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 shall be fully binding on any subsequent owner of the nursing 569 570 facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. 571 this agreement is executed, the Division of Medicaid and the State 572 573 Department of Health shall not certify more beds in the nursing facility for participation in the Medicaid program than the number 574 575 of licensed beds in the facility on July 1, 1995. If the nursing 576 facility violates the terms of the written agreement by admitting

577 or keeping in the nursing facility on a regular or continuing 578 basis a number of patients who are participating in the Medicaid 579 program that is greater than the number of licensed beds in the facility on July 1, 1995, the State Department of Health shall 580 581 revoke the license of the nursing facility, at the time that the 582 department determines, after a hearing complying with due process, 583 that the nursing facility has violated the condition upon which 584 the certificate of need was issued, as provided in this paragraph 585 and in the written agreement. For the purposes of this paragraph 586 (z), the provision of Section 41-7-193(1) requiring substantial 587 compliance with the projection of need as reported in the current 588 State Health Plan is waived. 589 The department may issue a certificate of need for (aa) 590 the construction of a nursing facility at a continuing care 591 retirement community in Lowndes County, provided that the 592 recipient of the certificate of need agrees in writing that the 593 nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients 594 595 in the nursing facility who are participating in the Medicaid 596 This written agreement by the recipient of the 597 certificate of need shall be fully binding on any subsequent owner 598 of the nursing facility, if the ownership of the facility is 599 transferred at any time after the issuance of the certificate of 600 Agreement that the nursing facility will not participate in 601 the Medicaid program shall be a condition of the issuance of a 602 certificate of need to any person under this paragraph (aa), and 603 if such nursing facility at any time after the issuance of the 604 certificate of need, regardless of the ownership of the facility, 605 participates in the Medicaid program or admits or keeps any 606 patients in the facility who are participating in the Medicaid 607 program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or 608 609 revoke the license of the nursing facility, at the time that the 610 department determines, after a hearing complying with due process,

611 that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this 612 613 paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be 614 615 authorized under the authority of this paragraph (aa) shall not 616 exceed sixty (60) beds. (bb) Provided that funds are specifically appropriated 617 therefor by the Legislature, the department may issue a 618 619 certificate of need to a rehabilitation hospital in Hinds County 620 for the construction of a sixty-bed long-term care nursing 621 facility dedicated to the care and treatment of persons with 622 severe disabilities including persons with spinal cord and 623 closed-head injuries and ventilator-dependent patients. provision of Section 41-7-193(1) regarding substantial compliance 624 with projection of need as reported in the current State Health 625 626 Plan is hereby waived for the purpose of this paragraph. 627 The State Department of Health may issue a certificate of need to a county-owned hospital in the Second 628 629 Judicial District of Panola County for the conversion of not more than seventy-two (72) hospital beds to nursing facility beds, 630 631 provided that the recipient of the certificate of need agrees in writing that none of the beds at the nursing facility will be 632 633 certified for participation in the Medicaid program (Section 634 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement in the nursing facility in any day or for 635 636 any patient in the nursing facility. This written agreement by the recipient of the certificate of need shall be a condition of 637 the issuance of the certificate of need under this paragraph, and 638 the agreement shall be fully binding on any subsequent owner of 639 640 the nursing facility if the ownership of the nursing facility is 641 transferred at any time after the issuance of the certificate of 642 need. After this written agreement is executed, the Division of 643 Medicaid and the State Department of Health shall not certify any

of the beds in the nursing facility for participation in the

the written agreement by admitting or keeping in the nursing 646 647 facility on a regular or continuing basis any patients who are participating in the Medicaid program, the State Department of 648 649 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. 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 complying with due process, shall revoke the certificate of need 662 663 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 The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing 671 672 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 skilled nursing facility who are participating in the Medicaid 676 677 This written agreement by the recipient of the program. 678 certificate of need shall be fully binding on any subsequent owner

Medicaid program. If the nursing facility violates the terms of

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     of the skilled nursing facility, if the ownership of the facility
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     is transferred at any time after the issuance of the certificate
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     of need. Agreement that the skilled nursing facility will not
     participate in the Medicaid program shall be a condition of the
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     issuance of a certificate of need to any person under this
     paragraph (dd), and if such skilled nursing facility at any time
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     after the issuance of the certificate of need, regardless of the
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     ownership of the facility, participates in the Medicaid program or
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     admits or keeps any patients in the facility who are participating
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     in the Medicaid program, the State Department of Health shall
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     revoke the certificate of need, if it is still outstanding, and
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     shall deny or revoke the license of the skilled nursing facility,
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     at the time that the department determines, after a hearing
     complying with due process, that the facility has failed to comply
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     with any of the conditions upon which the certificate of need was
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     issued, as provided in this paragraph and in the written agreement
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     by the recipient of the certificate of need. The total number of
     nursing facility beds that may be authorized by any certificate of
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     need issued under this paragraph (dd) shall not exceed sixty (60)
            If the certificate of need authorized under this paragraph
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     is not issued within twelve (12) months after July 1, 1998, the
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     department shall deny the application for the certificate of need
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     and shall not issue the certificate of need at any time after the
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     twelve-month period, unless the issuance is contested.
     certificate of need is issued and substantial construction of the
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     nursing facility beds has not commenced within eighteen (18)
     months after July 1, 1998, the State Department of Health, after a
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     hearing complying with due process, shall revoke the certificate
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     of need if it is still outstanding, and the department shall not
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     issue a license for the nursing facility at any time after the
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     eighteen-month period. Provided, however, that if the issuance of
     the certificate of need is contested, the department shall require
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     substantial construction of the nursing facility beds within six
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     (6) months after final adjudication on the issuance of the
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713 certificate of need.

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The department may issue a certificate of need for
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     the new construction, addition or conversion of skilled nursing
     facility beds in Leake County, provided that the recipient of the
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     certificate of need agrees in writing that the skilled nursing
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     facility will not at any time participate in the Medicaid program
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     (Section 43-13-101 et seq.) or admit or keep any patients in the
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     skilled nursing facility who are participating in the Medicaid
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               This written agreement by the recipient of the
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     certificate of need shall be fully binding on any subsequent owner
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     of the skilled nursing facility, if the ownership of the facility
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     is transferred at any time after the issuance of the certificate
     of need. Agreement that the skilled nursing facility will not
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     participate in the Medicaid program shall be a condition of the
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     issuance of a certificate of need to any person under this
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     paragraph (ee), and if such skilled nursing facility at any time
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     after the issuance of the certificate of need, regardless of the
     ownership of the facility, participates in the Medicaid program or
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     admits or keeps any patients in the facility who are participating
     in the Medicaid program, the State Department of Health shall
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     revoke the certificate of need, if it is still outstanding, and
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     shall deny or revoke the license of the skilled nursing facility,
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     at the time that the department determines, after a hearing
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     complying with due process, that the facility has failed to comply
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     with any of the conditions upon which the certificate of need was
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     issued, as provided in this paragraph and in the written agreement
     by the recipient of the certificate of need. The total number of
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     nursing facility beds that may be authorized by any certificate of
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     need issued under this paragraph (ee) shall not exceed sixty (60)
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            If the certificate of need authorized under this paragraph
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     is not issued within twelve (12) months after July 1, 1998, the
     department shall deny the application for the certificate of need
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     and shall not issue the certificate of need at any time after the
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     twelve-month period, unless the issuance is contested.
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     certificate of need is issued and substantial construction of the
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     nursing facility beds has not commenced within eighteen (18)
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     months after July 1, 1998, the State Department of Health, after a
     hearing complying with due process, shall revoke the certificate
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     of need if it is still outstanding, and the department shall not
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     issue a license for the nursing facility at any time after the
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     eighteen-month period. Provided, however, that if the issuance of
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     the certificate of need is contested, the department shall require
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     substantial construction of the nursing facility beds within six
756
     (6) months after final adjudication on the issuance of the
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     certificate of need.
758
               (ff) The department may issue a certificate of need for
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     the construction of a municipally-owned nursing facility within
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     the Town of Belmont in Tishomingo County, not to exceed sixty (60)
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     beds, provided that the recipient of the certificate of need
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     agrees in writing that the skilled nursing facility will not at
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     any time participate in the Medicaid program (Section 43-13-101 et
     seq.) or admit or keep any patients in the skilled nursing
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765
     facility who are participating in the Medicaid program.
     written agreement by the recipient of the certificate of need
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     shall be fully binding on any subsequent owner of the skilled
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     nursing facility, if the ownership of the facility is transferred
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     at any time after the issuance of the certificate of need.
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     Agreement that the skilled nursing facility will not participate
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     in the Medicaid program shall be a condition of the issuance of a
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     certificate of need to any person under this paragraph (ff), and
     if such skilled nursing facility at any time after the issuance of
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     the certificate of need, regardless of the ownership of the
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     facility, participates in the Medicaid program or admits or keeps
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     any patients in the facility who are participating in the Medicaid
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     program, the State Department of Health shall revoke the
     certificate of need, if it is still outstanding, and shall deny or
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     revoke the license of the skilled nursing facility, at the time
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that the department determines, after a hearing complying with due

781 process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as 782 783 provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 784 785 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for 786 787 the purposes of this paragraph. If the certificate of need 788 authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the 789 790 application for the certificate of need and shall not issue the 791 certificate of need at any time after the twelve-month period, 792 unless the issuance is contested. If the certificate of need is 793 issued and substantial construction of the nursing facility beds 794 has not commenced within eighteen (18) months after July 1, 1998, 795 the State Department of Health, after a hearing complying with due 796 process, shall revoke the certificate of need if it is still 797 outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. 798 799 Provided, however, that if the issuance of the certificate of need 800 is contested, the department shall require substantial 801 construction of the nursing facility beds within six (6) months 802 after final adjudication on the issuance of the certificate of 803 need. 804 (qq) The department may issue a certificate of need for the conversion to nursing home beds of existing personal care beds 805 806 in Lauderdale County that were constructed for extended care use 807 (nursing home) but are not currently licensed to provide nursing 808 home care. The total number of nursing home beds that may be 809 authorized by any certificate of need issued under this paragraph shall not exceed sixty (60) beds. 810 811 If the holder of the certificate of need that was issued before January 1, 1990, for the construction of a nursing home in 812

Claiborne County has not substantially undertaken commencement of

construction by completing site works and pouring foundations and

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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

and shall authorize the construction of a sixty-bed nursing home

822 on county-owned property or the conversion of vacant hospital beds

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

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

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

836 care facility for the mentally retarded (ICF-MR) beds to

837 psychiatric residential treatment facility beds, provided that

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.

(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

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849 residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of 850 851 any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be 852 853 submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential 854 855 treatment facility in any day or for any patient in the 856 psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient 857 858 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 residential treatment facility if the ownership of the facility is 861 862 transferred at any time after the issuance of the certificate of 863 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 treatment facility for participation in the Medicaid program for 866 867 the use of any patients other than those who are participating only in the Medicaid program of another state. If the psychiatric 868 869 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 Department of Health shall revoke the license of the facility, at 873 874 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
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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 out-of-state facilities, and (ii) that no more than fifteen (15) 886 887 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 in a bed that is not Medicaid-certified. 893 This written agreement 894 by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, 895 896 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 executed, the Division of Medicaid and the State Department of 900 901 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 Of the total number of beds authorized under this

of need for the construction or expansion of psychiatric 916 residential treatment facility beds or the conversion of other H. B. No. 175 99\HR40\R491 PAGE 27

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subsection, the department may issue a certificate or certificates

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     beds to psychiatric treatment facility beds, not to exceed thirty
     (30) psychiatric residential treatment facility beds, in either
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     Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
     Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.
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                    Of the total number of beds authorized under this
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     subsection (4) the department shall issue a certificate of need to
     a privately owned, nonprofit psychiatric residential treatment
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     facility in Hinds County for an eight-bed expansion of the
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     facility, provided that the facility agrees in writing that the
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     facility shall give priority for the use of those eight (8) beds
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     to Mississippi residents who are presently being treated in
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     out-of-state facilities.
          (5) (a) From and after July 1, 1993, the department shall
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930
     not issue a certificate of need to any person for the new
     construction of any hospital, psychiatric hospital or chemical
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932
     dependency hospital that will contain any child/adolescent
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     psychiatric or child/adolescent chemical dependency beds, or for
     the conversion of any other health care facility to a hospital,
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     psychiatric hospital or chemical dependency hospital that will
     contain any child/adolescent psychiatric or child/adolescent
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     chemical dependency beds, or for the addition of any
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     child/adolescent psychiatric or child/adolescent chemical
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     dependency beds in any hospital, psychiatric hospital or chemical
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     dependency hospital, or for the conversion of any beds of another
     category in any hospital, psychiatric hospital or chemical
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     dependency hospital to child/adolescent psychiatric or
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     child/adolescent chemical dependency beds, except as hereinafter
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     authorized:
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                    (i)
                         The department may issue certificates of need
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     to any person for any purpose described in this subsection,
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     provided that the hospital, psychiatric hospital or chemical
     dependency hospital does not participate in the Medicaid program
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949
     (Section 43-13-101 et seq.) at the time of the application for the
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certificate of need and the owner of the hospital, psychiatric

951 hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital 952 953 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. 961 that the hospital, psychiatric hospital or chemical dependency 962 hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person 963 964 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 chemical dependency hospital, at the time that the department 973 974 determines, after a hearing complying with due process, that the hospital, psychiatric hospital or chemical dependency hospital has 975 976 failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph 977 978 and in the written agreement by the recipient of the certificate 979 of need. 980 (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

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      projection of need as reported in the current State Health Plan is
               The total number of beds that may be authorized under
 986
      waived.
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      authority of this paragraph shall not exceed twenty (20) beds.
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      There shall be no prohibition or restrictions on participation in
 989
      the Medicaid program (Section 43-13-101 et seq.) for the hospital
      receiving the certificate of need authorized under this
 990
      subparagraph (a)(ii) or for the beds converted pursuant to the
 991
      authority of that certificate of need.
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 993
                      (iii) The department may issue a certificate or
 994
      certificates of need for the construction or expansion of
      child/adolescent psychiatric beds or the conversion of other beds
 995
 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
      of need as reported in the current State Health Plan are waived.
 999
1000
      The total number of beds that may be authorized under the
1001
      authority of this subparagraph shall not exceed twenty (20) beds.
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       There shall be no prohibition or restrictions on participation in
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      the Medicaid program (Section 43-13-101 et seq.) for the person
      receiving the certificate of need authorized under this
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      subparagraph (a)(iii) or for the beds converted pursuant to the
      authority of that certificate of need.
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1007
                      (iv) The department shall issue a certificate of
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      need to the Region 7 Mental Health/Retardation Commission for the
1009
      construction or expansion of child/adolescent psychiatric beds or
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      the conversion of other beds to child/adolescent psychiatric beds
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      in any of the counties served by the commission. For purposes of
      this subparagraph, the provisions of Section 41-7-193(1) requiring
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      substantial compliance with the projection of need as reported in
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      the current State Health Plan is waived. The total number of beds
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      that may be authorized under the authority of this subparagraph
      shall not exceed twenty (20) beds. There shall be no prohibition
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      or restrictions on participation in the Medicaid program (Section
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      43-13-101 et seq.) for the person receiving the certificate of
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converted pursuant to the authority of that certificate of need. 1020 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 twenty (20) beds, provided that the recipient of the certificate 1025 of need agrees in writing that the adult psychiatric beds will not 1026 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 participating in the Medicaid program in any of such adult 1029 1030 psychiatric beds. This written agreement by the recipient of the 1031 certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at 1032 any time after the issuance of the certificate of need. 1033 1034 that the adult psychiatric beds will not be certified for 1035 participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this 1036 1037 subparagraph (a)(v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership 1038 1039 of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any 1040 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 to comply with any of the conditions upon which the certificate of 1046 need was issued, as provided in this subparagraph and in the 1047 1048 written agreement by the recipient of the certificate of need. 1049 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 H. B. No. 175

need authorized under this subparagraph (a)(iv) or for the beds

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1053 another category to child/adolescent psychiatric or child/adolescent chemical dependency beds without a certificate of 1054 1055 need under the authority of subsection (1)(c) of this section. 1056 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. (7) The State Department of Health shall issue a certificate 1059 of need to a Mississippi corporation qualified to manage a 1060 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 et seq.) or admit or keep any patients in the long-term care 1067 1068 hospital who are participating in the Medicaid program. 1069 written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term 1070 1071 care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. 1072 Agreement 1073 that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a 1074 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 the certificate of need, regardless of the ownership of the 1077 1078 facility, participates in the Medicaid program or admits or keeps 1079 any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the 1080 certificate of need, if it is still outstanding, and shall deny or 1081 1082 revoke the license of the long-term care hospital, at the time 1083 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

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recipient of the certificate of need. For purposes of this 1087 1088 paragraph, the provision of Section 41-7-193(1) requiring 1089 substantial compliance with the projection of need as reported in the current State Health Plan is hereby waived. 1090 1091 The State Department of Health may issue a certificate 1092 of need to any hospital in the state to utilize a portion of its beds for the "swing-bed" concept. Any such hospital must be in 1093 conformance with the federal regulations regarding such swing-bed 1094 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 swing-bed program which receives such certificate of need shall 1101 1102 render services provided under the swing-bed concept to any 1103 patient eligible for Medicare (Title XVIII of the Social Security Act) who is certified by a physician to be in need of such 1104 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 thirty (30) days per admission unless the hospital receives prior 1108 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 beds of the hospital, there are no vacant nursing home beds 1115 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 swing beds of the hospital and the hospital receives notice from a 1118 1119 nursing home located within such radius that there is a vacant bed available for that patient, the hospital shall transfer the 1120

- 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
- $1140 \quad 41-7-173(h)$.
- 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

patient in the facility. This written agreement by the owner or 1189 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 is signed, the Division of Medicaid and the State Department of 1195 Health shall not certify any beds in the nursing facility for 1196 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 facility who is participating in the Medicaid program, or 1201 1202 submitting any claim for Medicaid reimbursement for any patient in the facility, the State Department of Health shall revoke the 1203 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 are qualified Medicare beneficiaries and/or those who are dually 1210 1211 eligible. Any nursing facility exercising the authority under 1212 this subsection may not bill or submit a claim to the Division of Medicaid for services to qualified Medicare beneficiaries and/or 1213 1214 those who are dually eligible.

1215 The new construction of a nursing facility or (C) nursing facility beds or the conversion of other beds to nursing 1216 facility beds described in this section must be either a part of a 1217 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 components, and so that the completed project will be a continuing 1221

- 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.