

By: Representative Scott (80th)

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 180

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ISSUE
3 CERTIFICATES OF NEED FOR THE CONSTRUCTION OR CONVERSION OF NURSING
4 FACILITY BEDS IN EACH OF THE FOUR LONG-TERM CARE PLANNING
5 DISTRICTS TO PROVIDE CARE EXCLUSIVELY TO PATIENTS WITH ALZHEIMER'S
6 DISEASE, NOT TO EXCEED 20 BEDS PER CERTIFICATE OF NEED OR A TOTAL
7 OF 60 BEDS PER DISTRICT; TO DIRECT THE STATE DEPARTMENT OF HEALTH
8 TO DEVELOP AND PRESCRIBE STANDARDS AND REQUIREMENTS THAT MUST BE
9 MET WITH REGARD TO THOSE NURSING FACILITY BEDS FOR ALZHEIMER'S
10 PATIENTS; AND FOR RELATED PURPOSES.

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

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

14 41-7-191. (1) No person shall engage in any of the
15 following activities without obtaining the required certificate of
16 need:

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

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

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

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

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

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

- (xiv) Long-term care hospital services;
- (xv) Positron Emission Tomography (PET) Services;

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

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

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

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

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

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

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

102 (k) The contracting of a health care facility as
103 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)

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

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

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

(b) The department may issue a certificate of need to any of the hospitals in the state which have a distinct part component of the hospital that was constructed for extended care use (nursing home care) but is not currently licensed to provide nursing home care, which certificate of need will authorize the distinct part component to be operated to provide nursing home care after a license is obtained. The six (6) hospitals which currently have these distinct part components and which are eligible for a certificate of need under this section are:
Webster General Hospital in Webster County, Tippah County General Hospital in Tippah County, Tishomingo County Hospital in Tishomingo County, North Sunflower County Hospital in Sunflower County, H.C. Watkins Hospital in Clarke County and Northwest Regional Medical Center in Coahoma County. Because the facilities

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

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

determines, after a hearing complying with due process, that the health care facility has violated the terms of the written agreement as provided in this paragraph.

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

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

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

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

(h) Provided all criteria specified in the 1989 State Health Plan are met and the proposed nursing home is within no more than a fifteen (15) minute transportation time to an existing

hospital, the department may issue a certificate of need for the construction of one (1) sixty-bed nursing home in Benton County.

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

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

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

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

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

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

(n) The department may issue a certificate of need to any intermediate care facility as defined in Section 41-7-173(h)(vi) in Marion County which has fewer than sixty (60) beds, for making additions to or expansion or replacement of the existing facility in order to increase the number 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

substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of nursing home beds that may be authorized by any certificate of need issued under this paragraph shall not exceed twenty-five (25) beds.

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

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

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

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

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

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

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

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

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

(u) The State Department of Health may issue a certificate of need for conversion of a county hospital facility in Itawamba County to a nursing facility, not to exceed sixty (60) beds, including any necessary construction, renovation or expansion, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the facility in any 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 facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the beds authorized by the certificate of need issued under this paragraph are not converted to nursing facility beds and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the facility at any time after the expiration of the eighteen-month period.

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

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

472 (w) The State Department of Health may issue a
473 certificate of need for the construction or expansion of nursing
474 facility beds or the conversion of other beds to nursing facility
475 beds in either Hancock, Harrison or Jackson Counties, not to
476 exceed sixty (60) beds, provided that the recipient of the
477 certificate of need agrees in writing that no more than thirty

(30) of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the nursing facility in any day or for any patient in the nursing facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by admitting or keeping in the nursing facility on a regular or continuing basis more than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the nursing facility or nursing facility beds authorized by the certificate of need issued under this paragraph are not constructed, expanded or converted and fully operational within thirty-six (36) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the nursing facility or nursing facility beds at any time after the expiration of the thirty-six-month period.

(x) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake

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

outstanding, and shall not issue a license for the skilled nursing facility at any time after the expiration of the eighteen-month period.

(y) The department may issue a certificate of need in Jones County for making additions to or expansion or replacement of an existing forty-bed facility in order to increase the number 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 substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of nursing home beds that may be authorized by any certificate of need issued under this paragraph shall not exceed twenty (20) beds.

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

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

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

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

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

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

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

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

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

substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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

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

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

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

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

809 (qq) (i) The State Department of Health shall issue
810 certificates of need for the construction or expansion of nursing
811 facility beds or the conversion of other beds to nursing facility
812 beds in each of the four (4) Long-Term Care Planning Districts
813 designated in the State Health Plan, to provide care exclusively
814 to patients with Alzheimer's disease. Not more than twenty (20)
815 of those beds may be authorized by any certificate of need issued
816 under this paragraph (qq), and the total number of those beds that
817 may be authorized by all certificates of need issued for any

Long-Term Care Planning District under this paragraph (qq) shall not exceed sixty (60) beds. Of the certificates of need that are issued for each Long-Term Care Planning District, at least one (1) shall be issued for beds in the northern part of the district, at least one (1) shall be issued for beds in the central part of the district, and at least one (1) shall be issued for beds in the southern part of the district.

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

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

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

seventy-four (274) beds for the entire state.

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

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more

886 than thirty (30) of the beds in the psychiatric residential
887 treatment facility for participation in the Medicaid program for
888 the use of any patients other than those who are participating
889 only in the Medicaid program of another state. If the psychiatric
890 residential treatment facility violates the terms of the written
891 agreement by admitting or keeping in the facility on a regular or
892 continuing basis more than thirty (30) patients who are
893 participating in the Mississippi Medicaid program, the State
894 Department of Health shall revoke the license of the facility, at
895 the time that the department determines, after a hearing complying
896 with due process, that the facility has violated the condition
897 upon which the certificate of need was issued, as provided in this
898 paragraph and in the written agreement.

899 (c) Of the total number of beds authorized under this
900 subsection, the department shall issue a certificate of need to a
901 hospital currently operating Medicaid-certified acute psychiatric
902 beds for adolescents in DeSoto County, for the establishment of a
903 forty-bed psychiatric residential treatment facility in DeSoto
904 County, provided that the hospital agrees in writing (i) that the
905 hospital shall give priority for the use of those forty (40) beds
906 to Mississippi residents who are presently being treated in
907 out-of-state facilities, and (ii) that no more than fifteen (15)
908 of the beds at the psychiatric residential treatment facility will
909 be certified for participation in the Medicaid program (Section
910 43-13-101 et seq.), and that no claim will be submitted for
911 Medicaid reimbursement for more than fifteen (15) patients in the
912 psychiatric residential treatment facility in any day or for any
913 patient in the psychiatric residential treatment facility who is
914 in a bed that is not Medicaid-certified. This written agreement
915 by the recipient of the certificate of need shall be a condition
916 of the issuance of the certificate of need under this paragraph,
917 and the agreement shall be fully binding on any subsequent owner
918 of the psychiatric residential treatment facility if the ownership
919 of the facility is transferred at any time after the issuance of

the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

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

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

(5) (a) From and after July 1, 1993, the department shall not issue a certificate of need to any person for the new construction of any hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent

954 psychiatric or child/adolescent chemical dependency beds, or for
955 the conversion of any other health care facility to a hospital,
956 psychiatric hospital or chemical dependency hospital that will
957 contain any child/adolescent psychiatric or child/adolescent
958 chemical dependency beds, or for the addition of any
959 child/adolescent psychiatric or child/adolescent chemical
960 dependency beds in any hospital, psychiatric hospital or chemical
961 dependency hospital, or for the conversion of any beds of another
962 category in any hospital, psychiatric hospital or chemical
963 dependency hospital to child/adolescent psychiatric or
964 child/adolescent chemical dependency beds, except as hereinafter
965 authorized:

966 (i) The department may issue certificates of need
967 to any person for any purpose described in this subsection,
968 provided that the hospital, psychiatric hospital or chemical
969 dependency hospital does not participate in the Medicaid program
970 (Section 43-13-101 et seq.) at the time of the application for the
971 certificate of need and the owner of the hospital, psychiatric
972 hospital or chemical dependency hospital agrees in writing that
973 the hospital, psychiatric hospital or chemical dependency hospital
974 will not at any time participate in the Medicaid program or admit
975 or keep any patients who are participating in the Medicaid program
976 in the hospital, psychiatric hospital or chemical dependency
977 hospital. This written agreement by the recipient of the
978 certificate of need shall be fully binding on any subsequent owner
979 of the hospital, psychiatric hospital or chemical dependency
980 hospital, if the ownership of the facility is transferred at any
981 time after the issuance of the certificate of need. Agreement
982 that the hospital, psychiatric hospital or chemical dependency
983 hospital will not participate in the Medicaid program shall be a
984 condition of the issuance of a certificate of need to any person
985 under this subparagraph (a)(i), and if such hospital, psychiatric
986 hospital or chemical dependency hospital at any time after the
987 issuance of the certificate of need, regardless of the ownership

of the facility, participates in the Medicaid program or admits or keeps any patients in the hospital, psychiatric hospital or chemical dependency hospital who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital, psychiatric hospital or chemical dependency hospital, at the time that the department determines, after a hearing complying with due process, that the hospital, psychiatric hospital or chemical dependency hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.

(ii) The department may issue a certificate of need for the conversion of existing beds in a county hospital in Choctaw County from acute care beds to child/adolescent chemical dependency beds. For purposes of this paragraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of beds that may be authorized under authority of this paragraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph (a)(ii) or for the beds converted pursuant to the authority of that certificate of need.

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

1022 authority of this subparagraph shall not exceed twenty (20) beds.

1023 There shall be no prohibition or restrictions on participation in
1024 the Medicaid program (Section 43-13-101 et seq.) for the person
1025 receiving the certificate of need authorized under this
1026 subparagraph (a)(iii) or for the beds converted pursuant to the
1027 authority of that certificate of need.

1028 (iv) The department shall issue a certificate of
1029 need to the Region 7 Mental Health/Retardation Commission for the
1030 construction or expansion of child/adolescent psychiatric beds or
1031 the conversion of other beds to child/adolescent psychiatric beds
1032 in any of the counties served by the commission. For purposes of
1033 this subparagraph, the provisions of Section 41-7-193(1) requiring
1034 substantial compliance with the projection of need as reported in
1035 the current State Health Plan is waived. The total number of beds
1036 that may be authorized under the authority of this subparagraph
1037 shall not exceed twenty (20) beds. There shall be no prohibition
1038 or restrictions on participation in the Medicaid program (Section
1039 43-13-101 et seq.) for the person receiving the certificate of
1040 need authorized under this subparagraph (a)(iv) or for the beds
1041 converted pursuant to the authority of that certificate of need.

1042 (v) The department may issue a certificate of need
1043 to any county hospital located in Leflore County for the
1044 construction or expansion of adult psychiatric beds or the
1045 conversion of other beds to adult psychiatric beds, not to exceed
1046 twenty (20) beds, provided that the recipient of the certificate
1047 of need agrees in writing that the adult psychiatric beds will not
1048 at any time be certified for participation in the Medicaid program
1049 and that the hospital will not admit or keep any patients who are
1050 participating in the Medicaid program in any of such adult
1051 psychiatric beds. This written agreement by the recipient of the
1052 certificate of need shall be fully binding on any subsequent owner
1053 of the hospital if the ownership of the hospital is transferred at
1054 any time after the issuance of the certificate of need. Agreement
1055 that the adult psychiatric beds will not be certified for

1056 participation in the Medicaid program shall be a condition of the
1057 issuance of a certificate of need to any person under this
1058 subparagraph (a)(v), and if such hospital at any time after the
1059 issuance of the certificate of need, regardless of the ownership
1060 of the hospital, has any of such adult psychiatric beds certified
1061 for participation in the Medicaid program or admits or keeps any
1062 Medicaid patients in such adult psychiatric beds, the State
1063 Department of Health shall revoke the certificate of need, if it
1064 is still outstanding, and shall deny or revoke the license of the
1065 hospital at the time that the department determines, after a
1066 hearing complying with due process, that the hospital has failed
1067 to comply with any of the conditions upon which the certificate of
1068 need was issued, as provided in this subparagraph and in the
1069 written agreement by the recipient of the certificate of need.

1070 (b) From and after July 1, 1990, no hospital,
1071 psychiatric hospital or chemical dependency hospital shall be
1072 authorized to add any child/adolescent psychiatric or
1073 child/adolescent chemical dependency beds or convert any beds of
1074 another category to child/adolescent psychiatric or
1075 child/adolescent chemical dependency beds without a certificate of
1076 need under the authority of subsection (1)(c) of this section.

1077 (6) The department may issue a certificate of need to a
1078 county hospital in Winston County for the conversion of fifteen
1079 (15) acute care beds to geriatric psychiatric care beds.

1080 (7) The State Department of Health shall issue a certificate
1081 of need to a Mississippi corporation qualified to manage a
1082 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1083 Harrison County, not to exceed eighty (80) beds, including any
1084 necessary renovation or construction required for licensure and
1085 certification, provided that the recipient of the certificate of
1086 need agrees in writing that the long-term care hospital will not
1087 at any time participate in the Medicaid program (Section 43-13-101
1088 et seq.) or admit or keep any patients in the long-term care
1089 hospital who are participating in the Medicaid program. This

1090 written agreement by the recipient of the certificate of need
1091 shall be fully binding on any subsequent owner of the long-term
1092 care hospital, if the ownership of the facility is transferred at
1093 any time after the issuance of the certificate of need. Agreement
1094 that the long-term care hospital will not participate in the
1095 Medicaid program shall be a condition of the issuance of a
1096 certificate of need to any person under this subsection (7), and
1097 if such long-term care hospital at any time after the issuance of
1098 the certificate of need, regardless of the ownership of the
1099 facility, participates in the Medicaid program or admits or keeps
1100 any patients in the facility who are participating in the Medicaid
1101 program, the State Department of Health shall revoke the
1102 certificate of need, if it is still outstanding, and shall deny or
1103 revoke the license of the long-term care hospital, at the time
1104 that the department determines, after a hearing complying with due
1105 process, that the facility has failed to comply with any of the
1106 conditions upon which the certificate of need was issued, as
1107 provided in this paragraph and in the written agreement by the
1108 recipient of the certificate of need. For purposes of this
1109 paragraph, the provision of Section 41-7-193(1) requiring
1110 substantial compliance with the projection of need as reported in
1111 the current State Health Plan is hereby waived.

1112 (8) The State Department of Health may issue a certificate
1113 of need to any hospital in the state to utilize a portion of its
1114 beds for the "swing-bed" concept. Any such hospital must be in
1115 conformance with the federal regulations regarding such swing-bed
1116 concept at the time it submits its application for a certificate
1117 of need to the State Department of Health, except that such
1118 hospital may have more licensed beds or a higher average daily
1119 census (ADC) than the maximum number specified in federal
1120 regulations for participation in the swing-bed program. Any
1121 hospital meeting all federal requirements for participation in the
1122 swing-bed program which receives such certificate of need shall
1123 render services provided under the swing-bed concept to any

1124 patient eligible for Medicare (Title XVIII of the Social Security
1125 Act) who is certified by a physician to be in need of such
1126 services, and no such hospital shall permit any patient who is
1127 eligible for both Medicaid and Medicare or eligible only for
1128 Medicaid to stay in the swing beds of the hospital for more than
1129 thirty (30) days per admission unless the hospital receives prior
1130 approval for such patient from the Division of Medicaid, Office of
1131 the Governor. Any hospital having more licensed beds or a higher
1132 average daily census (ADC) than the maximum number specified in
1133 federal regulations for participation in the swing-bed program
1134 which receives such certificate of need shall develop a procedure
1135 to insure that before a patient is allowed to stay in the swing
1136 beds of the hospital, there are no vacant nursing home beds
1137 available for that patient located within a fifty-mile radius of
1138 the hospital. When any such hospital has a patient staying in the
1139 swing beds of the hospital and the hospital receives notice from a
1140 nursing home located within such radius that there is a vacant bed
1141 available for that patient, the hospital shall transfer the
1142 patient to the nursing home within a reasonable time after receipt
1143 of the notice. Any hospital which is subject to the requirements
1144 of the two (2) preceding sentences of this paragraph may be
1145 suspended from participation in the swing-bed program for a
1146 reasonable period of time by the State Department of Health if the
1147 department, after a hearing complying with due process, determines
1148 that the hospital has failed to comply with any of those
1149 requirements.

1150 (9) The Department of Health shall not grant approval for or
1151 issue a certificate of need to any person proposing the new
1152 construction of, addition to or expansion of a health care
1153 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1154 (10) The Department of Health shall not grant approval for
1155 or issue a certificate of need to any person proposing the
1156 establishment of, or expansion of the currently approved territory
1157 of, or the contracting to establish a home office, subunit or

branch office within the space operated as a health care facility as defined in Section 41-7-173(h)(i) through (viii) by a health care facility as defined in subparagraph (ix) of Section 41-7-173(h).

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

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

(13) The new construction, renovation or expansion of or addition to any veterans homes or domiciliaries for eligible veterans of the State of Mississippi as authorized under Section 35-1-19 shall not require the issuance of a certificate of need,

1192 notwithstanding any provision in Section 41-7-171 et seq. to the
1193 contrary.

1194 (14) The new construction of a nursing facility or nursing
1195 facility beds or the conversion of other beds to nursing facility
1196 beds shall not require the issuance of a certificate of need,
1197 notwithstanding any provision in Section 41-7-171 et seq. to the
1198 contrary, if the conditions of this subsection are met.

1199 (a) Before any construction or conversion may be
1200 undertaken without a certificate of need, the owner of the nursing
1201 facility, in the case of an existing facility, or the applicant to
1202 construct a nursing facility, in the case of new construction,
1203 first must file a written notice of intent and sign a written
1204 agreement with the State Department of Health that the entire
1205 nursing facility will not at any time participate in or have any
1206 beds certified for participation in the Medicaid program (Section
1207 43-13-101 et seq.), will not admit or keep any patients in the
1208 nursing facility who are participating in the Medicaid program,
1209 and will not submit any claim for Medicaid reimbursement for any
1210 patient in the facility. This written agreement by the owner or
1211 applicant shall be a condition of exercising the authority under
1212 this subsection without a certificate of need, and the agreement
1213 shall be fully binding on any subsequent owner of the nursing
1214 facility if the ownership of the facility is transferred at any
1215 time after the agreement is signed. After the written agreement
1216 is signed, the Division of Medicaid and the State Department of
1217 Health shall not certify any beds in the nursing facility for
1218 participation in the Medicaid program. If the nursing facility
1219 violates the terms of the written agreement by participating in
1220 the Medicaid program, having any beds certified for participation
1221 in the Medicaid program, admitting or keeping any patient in the
1222 facility who is participating in the Medicaid program, or
1223 submitting any claim for Medicaid reimbursement for any patient in
1224 the facility, the State Department of Health shall revoke the
1225 license of the nursing facility at the time that the department

determines, after a hearing complying with due process, that the facility has violated the terms of the written agreement.

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

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

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

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