

By: Representative Frierson

To: Public Health and  
Welfare;  
Appropriations

HOUSE BILL NO. 690

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE  
3 OF NEED FOR THE EXPANSION OF AN EXISTING NURSING FACILITY IN PEARL  
4 RIVER COUNTY; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the  
9 following activities without obtaining the required certificate of  
10 need:

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

13 (b) The relocation of a health care facility or portion  
14 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 whichever is less, from one physical facility or site to another;  
21 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  
24 (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  
27 or department wherein such beds may be located; provided, however,  
28 that from and after July 1, 1994, no health care facility shall be

29 authorized to add any beds or convert any beds to another category  
30 of beds without a certificate of need under the authority of  
31 subsection (1)(c) of this section unless there is a projected need  
32 for such beds in the planning district in which the facility is  
33 located, as reported in the most current State Health Plan;

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

38 (i) Open heart surgery services;  
39 (ii) Cardiac catheterization services;  
40 (iii) Comprehensive inpatient rehabilitation  
41 services;

42 (iv) Licensed psychiatric services;  
43 (v) Licensed chemical dependency services;  
44 (vi) Radiation therapy services;  
45 (vii) Diagnostic imaging services of an invasive  
46 nature, i.e. invasive digital angiography;

47 (viii) Nursing home care as defined in  
48 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

49 (ix) Home health services;  
50 (x) Swing-bed services;  
51 (xi) Ambulatory surgical services;  
52 (xii) Magnetic resonance imaging services;  
53 (xiii) Extracorporeal shock wave lithotripsy  
54 services;

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

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

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

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

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

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

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

96           (k) The contracting of a health care facility as  
97 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
98 to establish a home office, subunit, or branch office in the space  
99 operated as a health care facility through a formal arrangement  
100 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 five hundred thirty (1,530) beds. The number of nursing home beds authorized under paragraphs (z), (cc), (dd), (ee) and (ff) of this subsection (2) shall not be counted in the limit on the total number of beds provided for in this paragraph (a).

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

Webster General Hospital in Webster County, Tippah County General Hospital in Tippah County, Tishomingo County Hospital in Tishomingo County, North Sunflower County Hospital in Sunflower County, H.C. Watkins Hospital in Clarke County and Northwest Regional Medical Center in Coahoma County. Because the facilities to be considered currently exist and no new construction is required, the provision of Section 41-7-193(1) regarding substantial compliance with the projection of need as reported in

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

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

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

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

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

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

475 more than thirty (30) patients in the nursing facility in any day  
476 or for any patient in the nursing facility who is in a bed that is  
477 not Medicaid-certified. This written agreement by the recipient  
478 of the certificate of need shall be a condition of the issuance of  
479 the certificate of need under this paragraph, and the agreement  
480 shall be fully binding on any subsequent owner of the nursing  
481 facility if the ownership of the nursing facility is transferred  
482 at any time after the issuance of the certificate of need. After  
483 this written agreement is executed, the Division of Medicaid and  
484 the State Department of Health shall not certify more than thirty  
485 (30) of the beds in the nursing facility for participation in the  
486 Medicaid program. If the nursing facility violates the terms of  
487 the written agreement by admitting or keeping in the nursing  
488 facility on a regular or continuing basis more than thirty (30)  
489 patients who are participating in the Medicaid program, the State  
490 Department of Health shall revoke the license of the nursing  
491 facility, at the time that the department determines, after a  
492 hearing complying with due process, that the nursing facility has  
493 violated the condition upon which the certificate of need was  
494 issued, as provided in this paragraph and in the written  
495 agreement. If the nursing facility or nursing facility beds  
496 authorized by the certificate of need issued under this paragraph  
497 are not constructed, expanded or converted and fully operational  
498 within thirty-six (36) months after July 1, 1994, the State  
499 Department of Health, after a hearing complying with due process,  
500 shall revoke the certificate of need, if it is still outstanding,  
501 and shall not issue a license for the nursing facility or nursing  
502 facility beds at any time after the expiration of the  
503 thirty-six-month period.

504 (x) The department may issue a certificate of need for  
505 the new construction of a skilled nursing facility in Leake  
506 County, provided that the recipient of the certificate of need  
507 agrees in writing that the skilled nursing facility will not at  
508 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 revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions

611 upon which the certificate of need was issued, as provided in this  
612 paragraph and in the written agreement by the recipient of the  
613 certificate of need. The total number of beds that may be  
614 authorized under the authority of this paragraph (aa) shall not  
615 exceed sixty (60) beds.

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

626 (cc) The State Department of Health may issue a  
627 certificate of need to a county-owned hospital in the Second  
628 Judicial District of Panola County for the conversion of not more  
629 than seventy-two (72) hospital beds to nursing facility beds,  
630 provided that the recipient of the certificate of need agrees in  
631 writing that none of the beds at the nursing facility will be  
632 certified for participation in the Medicaid program (Section  
633 43-13-101 et seq.), and that no claim will be submitted for  
634 Medicaid reimbursement in the nursing facility in any day or for  
635 any patient in the nursing facility. This written agreement by  
636 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 the nursing facility if the ownership of the nursing facility is  
640 transferred at any time after the issuance of the certificate of  
641 need. After this written agreement is executed, the Division of  
642 Medicaid and the State Department of Health shall not certify any  
643 of the beds in the nursing facility for participation in the  
644 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 any 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 certificate of need authorized under this paragraph is not issued within twelve (12) months after the effective date of 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.

(dd) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds 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

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

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

(qq) The State Department of Health may issue a certificate of need for the addition to or expansion of an existing nursing facility that is part of a county-owned community hospital in Pearl River County. The total number of nursing facility beds that may be authorized under any certificate of need issued under this paragraph shall not exceed sixty (60) beds.

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



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

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

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

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of

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

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds

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

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

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

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

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

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

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

(ii) The department may issue a certificate of need for the conversion of existing beds in a county hospital in Choctaw County from acute care beds to child/adolescent chemical dependency beds. For purposes of this paragraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of beds that may be authorized under

985 authority of this paragraph shall not exceed twenty (20) beds.

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

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

1000 There shall be no prohibition or restrictions on participation in  
1001 the Medicaid program (Section 43-13-101 et seq.) for the person  
1002 receiving the certificate of need authorized under this  
1003 subparagraph (a)(iii) or for the beds converted pursuant to the  
1004 authority of that certificate of need.

1005 (iv) The department shall issue a certificate of  
1006 need to the Region 7 Mental Health/Retardation Commission for the  
1007 construction or expansion of child/adolescent psychiatric beds or  
1008 the conversion of other beds to child/adolescent psychiatric beds  
1009 in any of the counties served by the commission. For purposes of  
1010 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1011 substantial compliance with the projection of need as reported in  
1012 the current State Health Plan is waived. The total number of beds  
1013 that may be authorized under the authority of this subparagraph  
1014 shall not exceed twenty (20) beds. There shall be no prohibition  
1015 or restrictions on participation in the Medicaid program (Section  
1016 43-13-101 et seq.) for the person receiving the certificate of  
1017 need authorized under this subparagraph (a)(iv) or for the beds  
1018 converted pursuant to the authority of that certificate of need.

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

(b) From and after July 1, 1990, no hospital, psychiatric hospital or chemical dependency hospital shall be authorized to add any child/adolescent psychiatric or child/adolescent chemical dependency beds or convert any beds of another category to child/adolescent psychiatric or child/adolescent chemical dependency beds without a certificate of

1053 need under the authority of subsection (1)(c) of this section.

1054       (6) The department may issue a certificate of need to a  
1055 county hospital in Winston County for the conversion of fifteen  
1056 (15) acute care beds to geriatric psychiatric care beds.

1057       (7) The State Department of Health shall issue a certificate  
1058 of need to a Mississippi corporation qualified to manage a  
1059 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1060 Harrison County, not to exceed eighty (80) beds, including any  
1061 necessary renovation or construction required for licensure and  
1062 certification, provided that the recipient of the certificate of  
1063 need agrees in writing that the long-term care hospital will not  
1064 at any time participate in the Medicaid program (Section 43-13-101  
1065 et seq.) or admit or keep any patients in the long-term care  
1066 hospital who are participating in the Medicaid program. This  
1067 written agreement by the recipient of the certificate of need  
1068 shall be fully binding on any subsequent owner of the long-term  
1069 care hospital, if the ownership of the facility is transferred at  
1070 any time after the issuance of the certificate of need. Agreement  
1071 that the long-term care hospital will not participate in the  
1072 Medicaid program shall be a condition of the issuance of a  
1073 certificate of need to any person under this subsection (7), and  
1074 if such long-term care hospital at any time after the issuance of  
1075 the certificate of need, regardless of the ownership of the  
1076 facility, participates in the Medicaid program or admits or keeps  
1077 any patients in the facility who are participating in the Medicaid  
1078 program, the State Department of Health shall revoke the  
1079 certificate of need, if it is still outstanding, and shall deny or  
1080 revoke the license of the long-term care hospital, at the time  
1081 that the department determines, after a hearing complying with due  
1082 process, that the facility has failed to comply with any of the  
1083 conditions upon which the certificate of need was issued, as  
1084 provided in this paragraph and in the written agreement by the  
1085 recipient of the certificate of need. For purposes of this  
1086 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 hereby waived.

(8) The State Department of Health may issue a certificate 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 conformance with the federal regulations regarding such swing-bed concept at the time it submits its application for a certificate of need to the State Department of Health, except that such hospital may have more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program. Any hospital meeting all federal requirements for participation in the swing-bed program which receives such certificate of need shall render services provided under the swing-bed concept to any patient eligible for Medicare (Title XVIII of the Social Security Act) who is certified by a physician to be in need of such services, and no such hospital shall permit any patient who is eligible for both Medicaid and Medicare or eligible only for Medicaid to stay in the swing beds of the hospital for more than thirty (30) days per admission unless the hospital receives prior approval for such patient from the Division of Medicaid, Office of the Governor. Any hospital having more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program which receives such certificate of need shall develop a procedure to insure that before a patient is allowed to stay in the swing beds of the hospital, there are no vacant nursing home beds available for that patient located within a fifty-mile radius of the hospital. When any such hospital has a patient staying in the swing beds of the hospital and the hospital receives notice from a nursing home located within such radius that there is a vacant bed available for that patient, the hospital shall transfer the patient to the nursing home within a reasonable time after receipt of the notice. Any hospital which is subject to the requirements

of the two (2) preceding sentences of this paragraph may be suspended from participation in the swing-bed program for a reasonable period of time by the State Department of Health if the department, after a hearing complying with due process, determines that the hospital has failed to comply with any of those requirements.

(9) The 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 a health care facility as defined in subparagraph (viii) of Section 41-7-173(h).

(10) The Department of Health shall not grant approval for or issue a certificate of need to any person proposing the establishment of, or expansion of the currently approved territory 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, notwithstanding any provision in Section 41-7-171 et seq. to the contrary.

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

(a) Before any construction or conversion may be undertaken without a certificate of need, the owner of the nursing facility, in the case of an existing facility, or the applicant to construct a nursing facility, in the case of new construction, first must file a written notice of intent and sign a written agreement with the State Department of Health that the entire nursing facility will not at any time participate in or have any beds certified for participation in the Medicaid program (Section 43-13-101 et seq.), will not admit or keep any patients in the nursing facility who are participating in the Medicaid program, and will not submit any claim for Medicaid reimbursement for any patient in the facility. This written agreement by the owner or applicant shall be a condition of exercising the authority under

1189 this subsection without a certificate of need, and the agreement  
1190 shall be fully binding on any subsequent owner of the nursing  
1191 facility if the ownership of the facility is transferred at any  
1192 time after the agreement is signed. After the written agreement  
1193 is signed, the Division of Medicaid and the State Department of  
1194 Health shall not certify any beds in the nursing facility for  
1195 participation in the Medicaid program. If the nursing facility  
1196 violates the terms of the written agreement by participating in  
1197 the Medicaid program, having any beds certified for participation  
1198 in the Medicaid program, admitting or keeping any patient in the  
1199 facility who is participating in the Medicaid program, or  
1200 submitting any claim for Medicaid reimbursement for any patient in  
1201 the facility, the State Department of Health shall revoke the  
1202 license of the nursing facility at the time that the department  
1203 determines, after a hearing complying with due process, that the  
1204 facility has violated the terms of the written agreement.

1205           (b) For the purposes of this subsection, participation  
1206 in the Medicaid program by a nursing facility includes Medicaid  
1207 reimbursement of coinsurance and deductibles for recipients who  
1208 are qualified Medicare beneficiaries and/or those who are dually  
1209 eligible. Any nursing facility exercising the authority under  
1210 this subsection may not bill or submit a claim to the Division of  
1211 Medicaid for services to qualified Medicare beneficiaries and/or  
1212 those who are dually eligible.

1213           (c) The new construction of a nursing facility or  
1214 nursing facility beds or the conversion of other beds to nursing  
1215 facility beds described in this section must be either a part of a  
1216 completely new continuing care retirement community, as described  
1217 in the latest edition of the Mississippi State Health Plan, or an  
1218 addition to existing personal care and independent living  
1219 components, and so that the completed project will be a continuing  
1220 care retirement community, containing (i) independent living  
1221 accommodations, (ii) personal care beds, and (iii) the nursing  
1222 home facility beds. The three (3) components must be located on a

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

1228         This subsection (14) shall stand repealed from and after July  
1229 1, 2001.

1230         SECTION 2. This act shall take effect and be in force from  
1231 and after July 1, 1999.