

By: Representatives Moody, Horne, Bailey, To: Public Health and
Banks, Barnett (116th), Barnett (92nd), Welfare;
Blackmon, Bourdeaux, Bowles, Bozeman, Appropriations
Broomfield, Capps, Chaney, Clark, Clarke,
Coleman (29th), Comans, Compretta, Cummings,
Dedeaux, Dickson, Eaton, Ellis, Ellzey, Endt,
Evans, Flaggs, Ford, Foster, Franks, Fredericks, Frierson, Gadd, Gibbs, Green
(34th), Green (96th), Grist, Guice, Hamilton, Henderson (26th), Henderson
(9th), Holland, Huddleston, Hudson, Ishee, Janus, Jennings, King, Livingston,
Malone, Manning, Maples, Markham, Martinson, McBride, McCoy, McElwain,
McInnis, Middleton, Miles, Miller, Mitchell, Moak, Moss, Myers, Nettles,
Peranich, Perkins, Perry, Read, Reeves, Reynolds, Robinson (63rd), Robinson
(84th), Rogers, Ryan, Scott (17th), Shows, Simmons, Simpson, Smith (27th),
Smith (39th), Smith (59th), Stevens, Straughter, Stringer, Taylor, Thomas,
Thornton, Vince, Walker, Wallace, Warren, Watson, Weathersby, West, Williams,
Woods, Young

HOUSE BILL NO. 834

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE RESTRICTIONS ON PARTICIPATION IN THE MEDICAID
3 PROGRAM FOR NURSING HOME BEDS THAT WERE AUTHORIZED BY CERTIFICATES
4 OF NEED; TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A
5 CERTIFICATE OF NEED DURING EACH OF THE NEXT FIVE FISCAL YEARS FOR
6 THE CONSTRUCTION OR EXPANSION OF NURSING FACILITY BEDS IN EACH OF
7 THE FOUR LONG-TERM CARE PLANNING DISTRICTS DESIGNATED IN THE STATE
8 HEALTH PLAN, NOT TO EXCEED 60 BEDS IN EACH DISTRICT DURING EACH
9 FISCAL YEAR; TO PROVIDE THAT FOR EACH FISCAL YEAR AFTER THE FIRST
10 FISCAL YEAR, THE DEPARTMENT SHALL NOT BE AUTHORIZED TO ISSUE ANY
11 CERTIFICATES OF NEED FOR NURSING FACILITY BEDS UNLESS THE
12 LEGISLATIVE BUDGET COMMITTEE HAS FIRST CERTIFIED IN WRITING TO THE
13 DEPARTMENT THAT SUFFICIENT FUNDS WERE APPROPRIATED TO THE DIVISION
14 OF MEDICAID TO FUND THOSE NURSING FACILITY BEDS; TO PROVIDE THAT
15 THE CERTIFICATE OF NEED ISSUED IN EACH DISTRICT DURING EACH FISCAL
16 YEAR SHALL FIRST BE AVAILABLE FOR NURSING FACILITY BEDS IN THE
17 COUNTY IN THE DISTRICT HAVING THE HIGHEST NEED FOR THOSE BEDS; TO
18 PROVIDE THAT IF THERE ARE NO APPLICATIONS FOR A CERTIFICATE OF
19 NEED IN THE COUNTY HAVING THE HIGHEST NEED, THEN THE CERTIFICATE
20 OF NEED SHALL BE AVAILABLE FOR NURSING FACILITY BEDS IN OTHER
21 COUNTIES IN THE DISTRICT IN DESCENDING ORDER OF THE NEED FOR THOSE
22 BEDS, UNTIL AN APPLICATION IS RECEIVED FOR BEDS IN AN ELIGIBLE
23 COUNTY IN THE DISTRICT; TO PROVIDE THAT AFTER A CERTIFICATE OF
24 NEED HAS BEEN ISSUED FOR NURSING FACILITY BEDS IN A COUNTY DURING
25 ANY FISCAL YEAR OF THE FIVE-YEAR PERIOD, A CERTIFICATE OF NEED
26 SHALL NOT BE AVAILABLE AGAIN FOR ADDITIONAL BEDS IN THAT COUNTY
27 DURING THE FIVE-YEAR PERIOD; TO AUTHORIZE THE STATE DEPARTMENT OF
28 HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE CONSTRUCTION OR
29 EXPANSION OF A NURSING FACILITY IN AMITE COUNTY; TO AUTHORIZE THE
30 STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE
31 CONSTRUCTION OR EXPANSION OF A NURSING FACILITY IN CARROLL COUNTY;
32 TO AUTHORIZE THE DEPARTMENT TO ISSUE CERTIFICATES OF NEED FOR THE
33 CONSTRUCTION OR CONVERSION OF NURSING FACILITY BEDS IN EACH OF THE
34 FOUR LONG-TERM CARE PLANNING DISTRICTS TO PROVIDE CARE EXCLUSIVELY
35 TO PATIENTS WITH ALZHEIMER'S DISEASE, NOT TO EXCEED 20 BEDS PER
36 CERTIFICATE OF NEED OR A TOTAL OF 60 BEDS PER DISTRICT; TO DIRECT
37 THE STATE DEPARTMENT OF HEALTH TO DEVELOP AND PRESCRIBE STANDARDS
38 AND REQUIREMENTS THAT MUST BE MET WITH REGARD TO THOSE NURSING
39 FACILITY BEDS FOR ALZHEIMER'S PATIENTS; TO AUTHORIZE THE STATE
40 DEPARTMENT OF HEALTH TO ISSUE CERTIFICATES OF NEED FOR THE
41 CONSTRUCTION OR EXPANSION OF CHILD PSYCHIATRIC BEDS AT THE
42 UNIVERSITY MEDICAL CENTER; TO AUTHORIZE THE STATE DEPARTMENT OF
43 HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE CONSTRUCTION OF A
44 COMPREHENSIVE CANCER CENTER ON THE JEFF ANDERSON REGIONAL MEDICAL
45 CENTER CAMPUS; TO PROVIDE THAT NOTHING IN THE CERTIFICATE OF NEED
46 LAW SHALL PREVENT ANY NURSING FACILITY FROM DESIGNATING EXISTING
47 BEDS IN THE FACILITY AS BEDS FOR PROVIDING CARE EXCLUSIVELY TO
48 PATIENTS WITH ALZHEIMER'S DISEASE; AND FOR RELATED PURPOSES.

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

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

52 41-7-191. (1) No person shall engage in any of the
53 following activities without obtaining the required certificate of
54 need:

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

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

59 (c) A change over a period of two (2) years' time, as
60 established by the State Department of Health, in existing bed
61 complement through the addition of more than ten (10) beds or more
62 than ten percent (10%) of the total bed capacity of a designated
63 licensed category or subcategory of any health care facility,
64 whichever is less, from one physical facility or site to another;
65 the conversion over a period of two (2) years' time, as
66 established by the State Department of Health, of existing bed
67 complement of more than ten (10) beds or more than ten percent
68 (10%) of the total bed capacity of a designated licensed category
69 or subcategory of any such health care facility, whichever is
70 less; or the alteration, modernizing or refurbishing of any unit
71 or department wherein such beds may be located; provided, however,
72 that from and after July 1, 1994, no health care facility shall be
73 authorized to add any beds or convert any beds to another category
74 of beds without a certificate of need under the authority of
75 subsection (1)(c) of this section unless there is a projected need
76 for such beds in the planning district in which the facility is
77 located, as reported in the most current State Health Plan;

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

82 (i) Open heart surgery services;

- 83 (ii) Cardiac catheterization services;
- 84 (iii) Comprehensive inpatient rehabilitation
- 85 services;
- 86 (iv) Licensed psychiatric services;
- 87 (v) Licensed chemical dependency services;
- 88 (vi) Radiation therapy services;
- 89 (vii) Diagnostic imaging services of an invasive
- 90 nature, i.e. invasive digital angiography;
- 91 (viii) Nursing home care as defined in
- 92 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 93 (ix) Home health services;
- 94 (x) Swing-bed services;
- 95 (xi) Ambulatory surgical services;
- 96 (xii) Magnetic resonance imaging services;
- 97 (xiii) Extracorporeal shock wave lithotripsy
- 98 services;
- 99 (xiv) Long-term care hospital services;
- 100 (xv) Positron Emission Tomography (PET) Services;

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

111 (f) The acquisition or otherwise control of any major
112 medical equipment for the provision of medical services; provided,
113 however, that the acquisition of any major medical equipment used
114 only for research purposes shall be exempt from this paragraph; an
115 acquisition for less than fair market value must be reviewed, if
116 the acquisition at fair market value would be subject to review;

117 (g) Changes of ownership of existing health care
118 facilities in which a notice of intent is not filed with the State
119 Department of Health at least thirty (30) days prior to the date
120 such change of ownership occurs, or a change in services or bed
121 capacity as prescribed in paragraph (c) or (d) of this subsection
122 as a result of the change of ownership; an acquisition for less
123 than fair market value must be reviewed, if the acquisition at
124 fair market value would be subject to review;

125 (h) The change of ownership of any health care facility
126 defined in subparagraphs (iv), (vi) and (viii) of Section
127 41-7-173(h), in which a notice of intent as described in paragraph
128 (g) has not been filed and if the Executive Director, Division of
129 Medicaid, Office of the Governor, has not certified in writing
130 that there will be no increase in allowable costs to Medicaid from
131 revaluation of the assets or from increased interest and
132 depreciation as a result of the proposed change of ownership;

133 (i) Any activity described in paragraphs (a) through
134 (h) if undertaken by any person if that same activity would
135 require certificate of need approval if undertaken by a health
136 care facility;

137 (j) Any capital expenditure or deferred capital
138 expenditure by or on behalf of a health care facility not covered
139 by paragraphs (a) through (h);

140 (k) The contracting of a health care facility as
141 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
142 to establish a home office, subunit, or branch office in the space
143 operated as a health care facility through a formal arrangement
144 with an existing health care facility as defined in subparagraph
145 (ix) of Section 41-7-173(h).

146 (2) The State Department of Health shall not grant approval
147 for or issue a certificate of need to any person proposing the new
148 construction of, addition to, or expansion of any health care
149 facility defined in subparagraphs (iv) (skilled nursing facility)
150 and (vi) (intermediate care facility) of Section 41-7-173(h) or

151 the conversion of vacant hospital beds to provide skilled or
152 intermediate nursing home care, except as hereinafter authorized:

153 * * *

154 (a) The department may issue a certificate of need to
155 any of the hospitals in the state which have a distinct part
156 component of the hospital that was constructed for extended care
157 use (nursing home care) but is not currently licensed to provide
158 nursing home care, which certificate of need will authorize the
159 distinct part component to be operated to provide nursing home
160 care after a license is obtained. The six (6) hospitals which
161 currently have these distinct part components and which are
162 eligible for a certificate of need under this section are:
163 Webster General Hospital in Webster County, Tippah County General
164 Hospital in Tippah County, Tishomingo County Hospital in
165 Tishomingo County, North Sunflower County Hospital in Sunflower
166 County, H.C. Watkins Hospital in Clarke County and Northwest
167 Regional Medical Center in Coahoma County. Because the facilities
168 to be considered currently exist and no new construction is
169 required, the provision of Section 41-7-193(1) regarding
170 substantial compliance with the projection of need as reported in
171 the 1989 State Health Plan is waived. The total number of nursing
172 home care beds that may be authorized by certificates of need
173 issued under this paragraph shall not exceed one hundred
174 fifty-four (154) beds.

175 (b) The department may issue a certificate of need to
176 any person proposing the new construction of any health care
177 facility defined in subparagraphs (iv) and (vi) of Section
178 41-7-173(h) as part of a life care retirement facility, in any
179 county bordering on the Gulf of Mexico in which is located a
180 National Aeronautics and Space Administration facility, not to
181 exceed forty (40) beds. From and after July 1, 1999, there shall
182 be no prohibition or restrictions on participation in the Medicaid
183 program (Section 43-13-101 et seq.) for the beds in the health
184 care facility that were authorized under this paragraph (b).

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

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

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

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

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

218 (h) The department may issue a certificate of need to

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

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

228 (j) The department may issue certificates of need in
229 Harrison County to provide skilled nursing home care for
230 Alzheimer's Disease patients and other patients, not to exceed one
231 hundred fifty (150) beds. From and after July 1, 1999, there
232 shall be no prohibition or restrictions on participation in the
233 Medicaid program (Section 43-13-101 et seq.) for the beds in the
234 nursing facilities that were authorized under this paragraph (j).

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

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

245 (m) The department may issue a certificate of need to
246 any intermediate care facility as defined in Section
247 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
248 beds, for making additions to or expansion or replacement of the
249 existing facility in order to increase the number of its beds to
250 not more than sixty (60) beds. For the purposes of this
251 paragraph, the provision of Section 41-7-193(1) requiring
252 substantial compliance with the projection of need as reported in

253 the current State Health Plan is waived. The total number of
254 nursing home beds that may be authorized by any certificate of
255 need issued under this paragraph shall not exceed twenty-five (25)
256 beds.

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

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

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

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

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

305 (r) The State Department of Health may issue a
306 certificate of need to any hospital located in DeSoto County for
307 the new construction of a skilled nursing facility, not to exceed
308 one hundred twenty (120) beds, in DeSoto County. From and after
309 July 1, 1999, there shall be no prohibition or restrictions on
310 participation in the Medicaid program (Section 43-13-101 et seq.)
311 for the beds in the nursing facility that were authorized under
312 this paragraph (r).

313 (s) The State Department of Health may issue a
314 certificate of need for the construction of a nursing facility or
315 the conversion of beds to nursing facility beds at a personal care
316 facility for the elderly in Lowndes County that is owned and
317 operated by a Mississippi nonprofit corporation, not to exceed
318 sixty (60) beds. From and after July 1, 1999, there shall be no
319 prohibition or restrictions on participation in the Medicaid
320 program (Section 43-13-101 et seq.) for the beds in the nursing

321 facility that were authorized under this paragraph (s).

322 (t) The State Department of Health may issue a
323 certificate of need for conversion of a county hospital facility
324 in Itawamba County to a nursing facility, not to exceed sixty (60)
325 beds, including any necessary construction, renovation or
326 expansion. From and after July 1, 1999, there shall be no
327 prohibition or restrictions on participation in the Medicaid
328 program (Section 43-13-101 et seq.) for the beds in the nursing
329 facility that were authorized under this paragraph (t).

330 (u) The State Department of Health may issue a
331 certificate of need for the construction or expansion of nursing
332 facility beds or the conversion of other beds to nursing facility
333 beds in either Hinds, Madison or Rankin Counties, not to exceed
334 sixty (60) beds. From and after July 1, 1999, there shall be no
335 prohibition or restrictions on participation in the Medicaid
336 program (Section 43-13-101 et seq.) for the beds in the nursing
337 facility that were authorized under this paragraph (u).

338 (v) The State Department of Health may issue a
339 certificate of need for the construction or expansion of nursing
340 facility beds or the conversion of other beds to nursing facility
341 beds in either Hancock, Harrison or Jackson Counties, not to
342 exceed sixty (60) beds. From and after July 1, 1999, there shall
343 be no prohibition or restrictions on participation in the Medicaid
344 program (Section 43-13-101 et seq.) for the beds in the facility
345 that were authorized under this paragraph (v).

346 (w) The department may issue a certificate of need for
347 the new construction of a skilled nursing facility in Leake
348 County, provided that the recipient of the certificate of need
349 agrees in writing that the skilled nursing facility will not at
350 any time participate in the Medicaid program (Section 43-13-101 et
351 seq.) or admit or keep any patients in the skilled nursing
352 facility who are participating in the Medicaid program. This
353 written agreement by the recipient of the certificate of need
354 shall be fully binding on any subsequent owner of the skilled

355 nursing facility, if the ownership of the facility is transferred
356 at any time after the issuance of the certificate of need.
357 Agreement that the skilled nursing facility will not participate
358 in the Medicaid program shall be a condition of the issuance of a
359 certificate of need to any person under this paragraph (w), and if
360 such skilled nursing facility at any time after the issuance of
361 the certificate of need, regardless of the ownership of the
362 facility, participates in the Medicaid program or admits or keeps
363 any patients in the facility who are participating in the Medicaid
364 program, the State Department of Health shall revoke the
365 certificate of need, if it is still outstanding, and shall deny or
366 revoke the license of the skilled nursing facility, at the time
367 that the department determines, after a hearing complying with due
368 process, that the facility has failed to comply with any of the
369 conditions upon which the certificate of need was issued, as
370 provided in this paragraph and in the written agreement by the
371 recipient of the certificate of need. The provision of Section
372 43-7-193(1) regarding substantial compliance of the projection of
373 need as reported in the current State Health Plan is waived for
374 the purposes of this paragraph. The total number of nursing
375 facility beds that may be authorized by any certificate of need
376 issued under this paragraph (w) shall not exceed sixty (60) beds.
377 If the skilled nursing facility authorized by the certificate of
378 need issued under this paragraph is not constructed and fully
379 operational within eighteen (18) months after July 1, 1994, the
380 State Department of Health, after a hearing complying with due
381 process, shall revoke the certificate of need, if it is still
382 outstanding, and shall not issue a license for the skilled nursing
383 facility at any time after the expiration of the eighteen-month
384 period.

385 (x) The department may issue a certificate of need in
386 Jones County for making additions to or expansion or replacement
387 of an existing forty-bed facility in order to increase the number
388 of its beds to not more than sixty (60) beds. For the purposes of

389 this paragraph, the provision of Section 41-7-193(1) requiring
390 substantial compliance with the projection of need as reported in
391 the current State Health Plan is waived. The total number of
392 nursing home beds that may be authorized by any certificate of
393 need issued under this paragraph shall not exceed twenty (20)
394 beds.

395 (y) The department may issue certificates of need to
396 allow any existing freestanding long-term care facility in
397 Tishomingo County and Hancock County that on July 1, 1995, is
398 licensed with fewer than sixty (60) beds. * * * For the purposes
399 of this paragraph (y), the provision of Section 41-7-193(1)
400 requiring substantial compliance with the projection of need as
401 reported in the current State Health Plan is waived. From and
402 after July 1, 1999, there shall be no prohibition or restrictions
403 on participation in the Medicaid program (Section 43-13-101 et
404 seq.) for the beds in the long-term care facilities that were
405 authorized under this paragraph (y).

406 (z) The department may issue a certificate of need for
407 the construction of a nursing facility at a continuing care
408 retirement community in Lowndes County, provided that the
409 recipient of the certificate of need agrees in writing that the
410 nursing facility will not at any time participate in the Medicaid
411 program (Section 43-13-101 et seq.) or admit or keep any patients
412 in the nursing facility who are participating in the Medicaid
413 program. This written agreement by the recipient of the
414 certificate of need shall be fully binding on any subsequent owner
415 of the nursing facility, if the ownership of the facility is
416 transferred at any time after the issuance of the certificate of
417 need. Agreement that the nursing facility will not participate in
418 the Medicaid program shall be a condition of the issuance of a
419 certificate of need to any person under this paragraph (z), and if
420 such nursing facility at any time after the issuance of the
421 certificate of need, regardless of the ownership of the facility,
422 participates in the Medicaid program or admits or keeps any

423 patients in the facility who are participating in the Medicaid
424 program, the State Department of Health shall revoke the
425 certificate of need, if it is still outstanding, and shall deny or
426 revoke the license of the nursing facility, at the time that the
427 department determines, after a hearing complying with due process,
428 that the facility has failed to comply with any of the conditions
429 upon which the certificate of need was issued, as provided in this
430 paragraph and in the written agreement by the recipient of the
431 certificate of need. The total number of beds that may be
432 authorized under the authority of this paragraph (z) shall not
433 exceed sixty (60) beds.

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

444 (bb) The State Department of Health may issue a
445 certificate of need to a county-owned hospital in the Second
446 Judicial District of Panola County for the conversion of not more
447 than seventy-two (72) hospital beds to nursing facility beds,
448 provided that the recipient of the certificate of need agrees in
449 writing that none of the beds at the nursing facility will be
450 certified for participation in the Medicaid program (Section
451 43-13-101 et seq.), and that no claim will be submitted for
452 Medicaid reimbursement in the nursing facility in any day or for
453 any patient in the nursing facility. This written agreement by
454 the recipient of the certificate of need shall be a condition of
455 the issuance of the certificate of need under this paragraph, and
456 the agreement shall be fully binding on any subsequent owner of

457 the nursing facility if the ownership of the nursing facility is
458 transferred at any time after the issuance of the certificate of
459 need. After this written agreement is executed, the Division of
460 Medicaid and the State Department of Health shall not certify any
461 of the beds in the nursing facility for participation in the
462 Medicaid program. If the nursing facility violates the terms of
463 the written agreement by admitting or keeping in the nursing
464 facility on a regular or continuing basis any patients who are
465 participating in the Medicaid program, the State Department of
466 Health shall revoke the license of the nursing facility, at the
467 time that the department determines, after a hearing complying
468 with due process, that the nursing facility has violated the
469 condition upon which the certificate of need was issued, as
470 provided in this paragraph and in the written agreement. If the
471 certificate of need authorized under this paragraph is not issued
472 within twelve (12) months after July 1, 1998, the department shall
473 deny the application for the certificate of need and shall not
474 issue the certificate of need at any time after the twelve-month
475 period, unless the issuance is contested. If the certificate of
476 need is issued and substantial construction of the nursing
477 facility beds has not commenced within eighteen (18) months after
478 July 1, 1998, the State Department of Health, after a hearing
479 complying with due process, shall revoke the certificate of need
480 if it is still outstanding, and the department shall not issue a
481 license for the nursing facility at any time after the
482 eighteen-month period. Provided, however, that if the issuance of
483 the certificate of need is contested, the department shall require
484 substantial construction of the nursing facility beds within six
485 (6) months after final adjudication on the issuance of the
486 certificate of need.

487 (cc) The department may issue a certificate of need for
488 the new construction, addition or conversion of skilled nursing
489 facility beds in Madison County, provided that the recipient of
490 the certificate of need agrees in writing that the skilled nursing

491 facility will not at any time participate in the Medicaid program
492 (Section 43-13-101 et seq.) or admit or keep any patients in the
493 skilled nursing facility who are participating in the Medicaid
494 program. This written agreement by the recipient of the
495 certificate of need shall be fully binding on any subsequent owner
496 of the skilled nursing facility, if the ownership of the facility
497 is transferred at any time after the issuance of the certificate
498 of need. Agreement that the skilled nursing facility will not
499 participate in the Medicaid program shall be a condition of the
500 issuance of a certificate of need to any person under this
501 paragraph (cc), and if such skilled nursing facility at any time
502 after the issuance of the certificate of need, regardless of the
503 ownership of the facility, participates in the Medicaid program or
504 admits or keeps any patients in the facility who are participating
505 in the Medicaid program, the State Department of Health shall
506 revoke the certificate of need, if it is still outstanding, and
507 shall deny or revoke the license of the skilled nursing facility,
508 at the time that the department determines, after a hearing
509 complying with due process, that the facility has failed to comply
510 with any of the conditions upon which the certificate of need was
511 issued, as provided in this paragraph and in the written agreement
512 by the recipient of the certificate of need. The total number of
513 nursing facility beds that may be authorized by any certificate of
514 need issued under this paragraph (cc) shall not exceed sixty (60)
515 beds. If the certificate of need authorized under this paragraph
516 is not issued within twelve (12) months after July 1, 1998, the
517 department shall deny the application for the certificate of need
518 and shall not issue the certificate of need at any time after the
519 twelve-month period, unless the issuance is contested. If the
520 certificate of need is issued and substantial construction of the
521 nursing facility beds has not commenced within eighteen (18)
522 months after the effective date of July 1, 1998, the State
523 Department of Health, after a hearing complying with due process,
524 shall revoke the certificate of need if it is still outstanding,

525 and the department shall not issue a license for the nursing
526 facility at any time after the eighteen-month period. Provided,
527 however, that if the issuance of the certificate of need is
528 contested, the department shall require substantial construction
529 of the nursing facility beds within six (6) months after final
530 adjudication on the issuance of the certificate of need.

531 (dd) The department may issue a certificate of need for
532 the new construction, addition or conversion of skilled nursing
533 facility beds in Leake County, provided that the recipient of the
534 certificate of need agrees in writing that the skilled nursing
535 facility will not at any time participate in the Medicaid program
536 (Section 43-13-101 et seq.) or admit or keep any patients in the
537 skilled nursing facility who are participating in the Medicaid
538 program. This written agreement by the recipient of the
539 certificate of need shall be fully binding on any subsequent owner
540 of the skilled nursing facility, if the ownership of the facility
541 is transferred at any time after the issuance of the certificate
542 of need. Agreement that the skilled nursing facility will not
543 participate in the Medicaid program shall be a condition of the
544 issuance of a certificate of need to any person under this
545 paragraph (dd), and if such skilled nursing facility at any time
546 after the issuance of the certificate of need, regardless of the
547 ownership of the facility, participates in the Medicaid program or
548 admits or keeps any patients in the facility who are participating
549 in the Medicaid program, the State Department of Health shall
550 revoke the certificate of need, if it is still outstanding, and
551 shall deny or revoke the license of the skilled nursing facility,
552 at the time that the department determines, after a hearing
553 complying with due process, that the facility has failed to comply
554 with any of the conditions upon which the certificate of need was
555 issued, as provided in this paragraph and in the written agreement
556 by the recipient of the certificate of need. The total number of
557 nursing facility beds that may be authorized by any certificate of
558 need issued under this paragraph (dd) shall not exceed sixty (60)

559 beds. If the certificate of need authorized under this paragraph
560 is not issued within twelve (12) months after July 1, 1998, the
561 department shall deny the application for the certificate of need
562 and shall not issue the certificate of need at any time after the
563 twelve-month period, unless the issuance is contested. If the
564 certificate of need is issued and substantial construction of the
565 nursing facility beds has not commenced within eighteen (18)
566 months after the effective date of July 1, 1998, the State
567 Department of Health, after a hearing complying with due process,
568 shall revoke the certificate of need if it is still outstanding,
569 and the department shall not issue a license for the nursing
570 facility at any time after the eighteen-month period. Provided,
571 however, that if the issuance of the certificate of need is
572 contested, the department shall require substantial construction
573 of the nursing facility beds within six (6) months after final
574 adjudication on the issuance of the certificate of need.

575 (ee) The department may issue a certificate of need for
576 the construction of a municipally-owned nursing facility within
577 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
578 beds, provided that the recipient of the certificate of need
579 agrees in writing that the skilled nursing facility will not at
580 any time participate in the Medicaid program (Section 43-13-101 et
581 seq.) or admit or keep any patients in the skilled nursing
582 facility who are participating in the Medicaid program. This
583 written agreement by the recipient of the certificate of need
584 shall be fully binding on any subsequent owner of the skilled
585 nursing facility, if the ownership of the facility is transferred
586 at any time after the issuance of the certificate of need.
587 Agreement that the skilled nursing facility will not participate
588 in the Medicaid program shall be a condition of the issuance of a
589 certificate of need to any person under this paragraph (ee), and
590 if such skilled nursing facility at any time after the issuance of
591 the certificate of need, regardless of the ownership of the
592 facility, participates in the Medicaid program or admits or keeps

593 any patients in the facility who are participating in the Medicaid
594 program, the State Department of Health shall revoke the
595 certificate of need, if it is still outstanding, and shall deny or
596 revoke the license of the skilled nursing facility, at the time
597 that the department determines, after a hearing complying with due
598 process, that the facility has failed to comply with any of the
599 conditions upon which the certificate of need was issued, as
600 provided in this paragraph and in the written agreement by the
601 recipient of the certificate of need. The provision of Section
602 43-7-193(1) regarding substantial compliance of the projection of
603 need as reported in the current State Health Plan is waived for
604 the purposes of this paragraph. If the certificate of need
605 authorized under this paragraph is not issued within twelve (12)
606 months after July 1, 1998, the department shall deny the
607 application for the certificate of need and shall not issue the
608 certificate of need at any time after the twelve-month period,
609 unless the issuance is contested. If the certificate of need is
610 issued and substantial construction of the nursing facility beds
611 has not commenced within eighteen (18) months after July 1, 1998,
612 the State Department of Health, after a hearing complying with due
613 process, shall revoke the certificate of need if it is still
614 outstanding, and the department shall not issue a license for the
615 nursing facility at any time after the eighteen-month period.
616 Provided, however, that if the issuance of the certificate of need
617 is contested, the department shall require substantial
618 construction of the nursing facility beds within six (6) months
619 after final adjudication on the issuance of the certificate of
620 need.

621 (ff) (i) Beginning on July 1, 1999, the State
622 Department of Health may issue a certificate of need during each
623 of the next five (5) fiscal years for the construction or
624 expansion of nursing facility beds or the conversion of other beds
625 to nursing facility beds in each of the four (4) Long-Term Care
626 Planning Districts designated in the fiscal year 1998 State Health

627 Plan, not to exceed sixty (60) beds in each district during each
628 fiscal year. However, for the fiscal year beginning July 1, 2000,
629 and for each of the three (3) fiscal years thereafter, the State
630 Department of Health shall not be authorized to issue any
631 certificates of need under this paragraph (ff) during that fiscal
632 year unless the Joint Legislative Budget Committee has first
633 certified in writing to the Executive Director of the State
634 Department of Health that there are sufficient funds available in
635 the Division of Medicaid's appropriation bill for that fiscal year
636 to fund the nursing facility beds that would be authorized by
637 certificates of need issued under this paragraph (ff) during that
638 fiscal year.

639 (ii) Subject to the provisions of subparagraph
640 (iii), the certificate of need issued for nursing facility beds in
641 each Long-Term Care Planning District during each fiscal year
642 shall first be available for nursing facility beds in the county
643 in the district having the highest need for those beds, as shown
644 in the fiscal year 1998 State Health Plan. If there are no
645 applications for a certificate of need for nursing facility beds
646 in the county having the highest need for those beds by the date
647 specified by the department, then the certificate of need shall be
648 available for nursing facility beds in other counties in the
649 district in descending order of the need for those beds, from the
650 county with the second highest need to the county with the lowest
651 need, until an application is received for nursing facility beds
652 in an eligible county in the district.

653 (iii) After a certificate of need has been issued
654 under this paragraph (ff) for nursing facility beds in a county
655 during any fiscal year of the five-year period, a certificate of
656 need shall not be available again under this paragraph (ff) for
657 additional nursing facility beds in that county during the
658 five-year period, and that county shall be excluded in determining
659 which counties have the highest need for nursing facility beds in
660 succeeding fiscal years. In addition, a certificate of need shall

661 not be available under this paragraph (ff) for nursing facility
662 beds in Amite County and Carroll County during any fiscal year of
663 the five-year period, and Amite County and Carroll County shall be
664 excluded in determining which counties have the highest need for
665 nursing facility beds for the purposes of the issuance of a
666 certificate of need under this paragraph (ff).

667 (gg) The State Department of Health may issue a
668 certificate of need for the construction or expansion of nursing
669 facility beds or the conversion of other beds to nursing facility
670 beds in Amite County, not to exceed sixty (60) beds.

671 (hh) The State Department of Health may issue a
672 certificate of need for the construction or expansion of nursing
673 facility beds or the conversion of other beds to nursing facility
674 beds in Carroll County, not to exceed sixty (60) beds.

675 (ii) The State Department of Health shall issue
676 certificates of need for the construction or expansion of nursing
677 facility beds or the conversion of other beds to nursing facility
678 beds in each of the four (4) Long-Term Care Planning Districts
679 designated in the State Health Plan, to provide care exclusively
680 to patients with Alzheimer's disease. Not more than twenty (20)
681 of those beds may be authorized by any certificate of need issued
682 under this paragraph (ii), and the total number of those beds that
683 may be authorized by all certificates of need issued for any
684 Long-Term Care Planning District under this paragraph (ii) shall
685 not exceed sixty (60) beds. Of the certificates of need that are
686 issued for each Long-Term Care Planning District, at least one (1)
687 shall be issued for beds in the northern part of the district, at
688 least one (1) shall be issued for beds in the central part of the
689 district, and at least one (1) shall be issued for beds in the
690 southern part of the district.

691 The State Department of Health, in consultation with the
692 Department of Mental Health and the Division of Medicaid, shall
693 develop and prescribe the staffing levels, space requirements and
694 other standards and requirements that must be met with regard to

695 the nursing facility beds authorized under this paragraph to
696 provide care exclusively to patients with Alzheimer's disease.

697 (3) If the holder of the certificate of need that was issued
698 before January 1, 1990, for the construction of a nursing home in
699 Claiborne County has not substantially undertaken commencement of
700 construction by completing site works and pouring foundations and
701 the floor slab of a nursing home in Claiborne County before May 1,
702 1990, as determined by the department, then the department shall
703 transfer such certificate of need to the Board of Supervisors of
704 Claiborne County upon the effective date of this subsection (3).
705 If the certificate of need is transferred to the board of
706 supervisors, it shall be valid for a period of twelve (12) months
707 and shall authorize the construction of a sixty-bed nursing home
708 on county-owned property or the conversion of vacant hospital beds
709 in the county hospital not to exceed sixty (60) beds.

710 (4) The State Department of Health may grant approval for
711 and issue certificates of need to any person proposing the new
712 construction of, addition to, conversion of beds of or expansion
713 of any health care facility defined in subparagraph (x)
714 (psychiatric residential treatment facility) of Section
715 41-7-173(h). The total number of beds which may be authorized by
716 such certificates of need shall not exceed two hundred
717 seventy-four (274) beds for the entire state.

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

727 (b) Of the total number of beds authorized under this
728 subsection, the department may issue a certificate or certificates

729 of need for the construction or expansion of psychiatric
730 residential treatment facility beds or the conversion of other
731 beds to psychiatric residential treatment facility beds in Warren
732 County, not to exceed sixty (60) psychiatric residential treatment
733 facility beds, provided that the facility agrees in writing that
734 no more than thirty (30) of the beds at the psychiatric
735 residential treatment facility will be certified for participation
736 in the Medicaid program (Section 43-13-101 et seq.) for the use of
737 any patients other than those who are participating only in the
738 Medicaid program of another state, and that no claim will be
739 submitted to the Division of Medicaid for Medicaid reimbursement
740 for more than thirty (30) patients in the psychiatric residential
741 treatment facility in any day or for any patient in the
742 psychiatric residential treatment facility who is in a bed that is
743 not Medicaid-certified. This written agreement by the recipient
744 of the certificate of need shall be a condition of the issuance of
745 the certificate of need under this paragraph, and the agreement
746 shall be fully binding on any subsequent owner of the psychiatric
747 residential treatment facility if the ownership of the facility is
748 transferred at any time after the issuance of the certificate of
749 need. After this written agreement is executed, the Division of
750 Medicaid and the State Department of Health shall not certify more
751 than thirty (30) of the beds in the psychiatric residential
752 treatment facility for participation in the Medicaid program for
753 the use of any patients other than those who are participating
754 only in the Medicaid program of another state. If the psychiatric
755 residential treatment facility violates the terms of the written
756 agreement by admitting or keeping in the facility on a regular or
757 continuing basis more than thirty (30) patients who are
758 participating in the Mississippi Medicaid program, the State
759 Department of Health shall revoke the license of the facility, at
760 the time that the department determines, after a hearing complying
761 with due process, that the facility has violated the condition
762 upon which the certificate of need was issued, as provided in this

763 paragraph and in the written agreement.

764 (c) Of the total number of beds authorized under this
765 subsection, the department shall issue a certificate of need to a
766 hospital currently operating Medicaid-certified acute psychiatric
767 beds for adolescents in DeSoto County, for the establishment of a
768 forty-bed psychiatric residential treatment facility in DeSoto
769 County, provided that the hospital agrees in writing (i) that the
770 hospital shall give priority for the use of those forty (40) beds
771 to Mississippi residents who are presently being treated in
772 out-of-state facilities, and (ii) that no more than fifteen (15)
773 of the beds at the psychiatric residential treatment facility will
774 be certified for participation in the Medicaid program (Section
775 43-13-101 et seq.), and that no claim will be submitted for
776 Medicaid reimbursement for more than fifteen (15) patients in the
777 psychiatric residential treatment facility in any day or for any
778 patient in the psychiatric residential treatment facility who is
779 in a bed that is not Medicaid-certified. This written agreement
780 by the recipient of the certificate of need shall be a condition
781 of the issuance of the certificate of need under this paragraph,
782 and the agreement shall be fully binding on any subsequent owner
783 of the psychiatric residential treatment facility if the ownership
784 of the facility is transferred at any time after the issuance of
785 the certificate of need. After this written agreement is
786 executed, the Division of Medicaid and the State Department of
787 Health shall not certify more than fifteen (15) of the beds in the
788 psychiatric residential treatment facility for participation in
789 the Medicaid program. If the psychiatric residential treatment
790 facility violates the terms of the written agreement by admitting
791 or keeping in the facility on a regular or continuing basis more
792 than fifteen (15) patients who are participating in the Medicaid
793 program, the State Department of Health shall revoke the license
794 of the facility, at the time that the department determines, after
795 a hearing complying with due process, that the facility has
796 violated the condition upon which the certificate of need was

797 issued, as provided in this paragraph and in the written
798 agreement.

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

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

815 (5) (a) From and after July 1, 1993, the department shall
816 not issue a certificate of need to any person for the new
817 construction of any hospital, psychiatric hospital or chemical
818 dependency hospital that will contain any child/adolescent
819 psychiatric or child/adolescent chemical dependency beds, or for
820 the conversion of any other health care facility to a hospital,
821 psychiatric hospital or chemical dependency hospital that will
822 contain any child/adolescent psychiatric or child/adolescent
823 chemical dependency beds, or for the addition of any
824 child/adolescent psychiatric or child/adolescent chemical
825 dependency beds in any hospital, psychiatric hospital or chemical
826 dependency hospital, or for the conversion of any beds of another
827 category in any hospital, psychiatric hospital or chemical
828 dependency hospital to child/adolescent psychiatric or
829 child/adolescent chemical dependency beds, except as hereinafter
830 authorized:

831 (i) The department may issue certificates of need
832 to any person for any purpose described in this subsection,
833 provided that the hospital, psychiatric hospital or chemical
834 dependency hospital does not participate in the Medicaid program
835 (Section 43-13-101 et seq.) at the time of the application for the
836 certificate of need and the owner of the hospital, psychiatric
837 hospital or chemical dependency hospital agrees in writing that
838 the hospital, psychiatric hospital or chemical dependency hospital
839 will not at any time participate in the Medicaid program or admit
840 or keep any patients who are participating in the Medicaid program
841 in the hospital, psychiatric hospital or chemical dependency
842 hospital. This written agreement by the recipient of the
843 certificate of need shall be fully binding on any subsequent owner
844 of the hospital, psychiatric hospital or chemical dependency
845 hospital, if the ownership of the facility is transferred at any
846 time after the issuance of the certificate of need. Agreement
847 that the hospital, psychiatric hospital or chemical dependency
848 hospital will not participate in the Medicaid program shall be a
849 condition of the issuance of a certificate of need to any person
850 under this subparagraph (a)(i), and if such hospital, psychiatric
851 hospital or chemical dependency hospital at any time after the
852 issuance of the certificate of need, regardless of the ownership
853 of the facility, participates in the Medicaid program or admits or
854 keeps any patients in the hospital, psychiatric hospital or
855 chemical dependency hospital who are participating in the Medicaid
856 program, the State Department of Health shall revoke the
857 certificate of need, if it is still outstanding, and shall deny or
858 revoke the license of the hospital, psychiatric hospital or
859 chemical dependency hospital, at the time that the department
860 determines, after a hearing complying with due process, that the
861 hospital, psychiatric hospital or chemical dependency hospital has
862 failed to comply with any of the conditions upon which the
863 certificate of need was issued, as provided in this subparagraph
864 and in the written agreement by the recipient of the certificate

865 of need.

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

879 (iii) The department may issue a certificate or
880 certificates of need for the construction or expansion of
881 child/adolescent psychiatric beds or the conversion of other beds
882 to child/adolescent psychiatric beds in Warren County. For
883 purposes of this subparagraph, the provisions of Section
884 41-7-193(1) requiring substantial compliance with the projection
885 of need as reported in the current State Health Plan are waived.
886 The total number of beds that may be authorized under the
887 authority of this subparagraph shall not exceed twenty (20) beds.

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

893 (iv) The department shall issue a certificate of
894 need to the Region 7 Mental Health/Retardation Commission for the
895 construction or expansion of child/adolescent psychiatric beds or
896 the conversion of other beds to child/adolescent psychiatric beds
897 in any of the counties served by the commission. For purposes of
898 this subparagraph, the provisions of Section 41-7-193(1) requiring

899 substantial compliance with the projection of need as reported in
900 the current State Health Plan is waived. The total number of beds
901 that may be authorized under the authority of this subparagraph
902 shall not exceed twenty (20) beds. There shall be no prohibition
903 or restrictions on participation in the Medicaid program (Section
904 43-13-101 et seq.) for the person receiving the certificate of
905 need authorized under this subparagraph (a)(iv) or for the beds
906 converted pursuant to the authority of that certificate of need.

907 (v) The department may issue a certificate of need
908 to any county hospital located in Leflore County for the
909 construction or expansion of adult psychiatric beds or the
910 conversion of other beds to adult psychiatric beds, not to exceed
911 twenty (20) beds, provided that the recipient of the certificate
912 of need agrees in writing that the adult psychiatric beds will not
913 at any time be certified for participation in the Medicaid program
914 and that the hospital will not admit or keep any patients who are
915 participating in the Medicaid program in any of such adult
916 psychiatric beds. This written agreement by the recipient of the
917 certificate of need shall be fully binding on any subsequent owner
918 of the hospital if the ownership of the hospital is transferred at
919 any time after the issuance of the certificate of need. Agreement
920 that the adult psychiatric beds will not be certified for
921 participation in the Medicaid program shall be a condition of the
922 issuance of a certificate of need to any person under this
923 subparagraph (a)(v), and if such hospital at any time after the
924 issuance of the certificate of need, regardless of the ownership
925 of the hospital, has any of such adult psychiatric beds certified
926 for participation in the Medicaid program or admits or keeps any
927 Medicaid patients in such adult psychiatric beds, the State
928 Department of Health shall revoke the certificate of need, if it
929 is still outstanding, and shall deny or revoke the license of the
930 hospital at the time that the department determines, after a
931 hearing complying with due process, that the hospital has failed
932 to comply with any of the conditions upon which the certificate of

933 need was issued, as provided in this subparagraph and in the
934 written agreement by the recipient of the certificate of need.

935 (vi) The department may issue a certificate or
936 certificates of need for the expansion of child psychiatric beds
937 or the conversion of other beds to child psychiatric beds at the
938 University of Mississippi Medical Center. For purposes of this
939 subparagraph (a)(vi), the provision of Section 41-7-193(1)
940 requiring substantial compliance with the projection of need as
941 reported in the current State Health Plan is waived. The total
942 number of beds that may be authorized under the authority of this
943 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There
944 shall be no prohibition or restrictions on participation in the
945 Medicaid program (Section 43-13-101 et seq.) for the hospital
946 receiving the certificate of need authorized under this
947 subparagraph (a)(vi) or for the beds converted pursuant to the
948 authority of that certificate of need.

949 (b) From and after July 1, 1990, no hospital,
950 psychiatric hospital or chemical dependency hospital shall be
951 authorized to add any child/adolescent psychiatric or
952 child/adolescent chemical dependency beds or convert any beds of
953 another category to child/adolescent psychiatric or
954 child/adolescent chemical dependency beds without a certificate of
955 need under the authority of subsection (1)(c) of this section.

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

959 (7) The State Department of Health shall issue a certificate
960 of need to a Mississippi corporation qualified to manage a
961 long-term care hospital as defined in Section 41-7-173(h)(xii) in
962 Harrison County, not to exceed eighty (80) beds, including any
963 necessary renovation or construction required for licensure and
964 certification, provided that the recipient of the certificate of
965 need agrees in writing that the long-term care hospital will not
966 at any time participate in the Medicaid program (Section 43-13-101

967 et seq.) or admit or keep any patients in the long-term care
968 hospital who are participating in the Medicaid program. This
969 written agreement by the recipient of the certificate of need
970 shall be fully binding on any subsequent owner of the long-term
971 care hospital, if the ownership of the facility is transferred at
972 any time after the issuance of the certificate of need. Agreement
973 that the long-term care hospital will not participate in the
974 Medicaid program shall be a condition of the issuance of a
975 certificate of need to any person under this subsection (7), and
976 if such long-term care hospital at any time after the issuance of
977 the certificate of need, regardless of the ownership of the
978 facility, participates in the Medicaid program or admits or keeps
979 any patients in the facility who are participating in the Medicaid
980 program, the State Department of Health shall revoke the
981 certificate of need, if it is still outstanding, and shall deny or
982 revoke the license of the long-term care hospital, at the time
983 that the department determines, after a hearing complying with due
984 process, that the facility has failed to comply with any of the
985 conditions upon which the certificate of need was issued, as
986 provided in this paragraph and in the written agreement by the
987 recipient of the certificate of need. For purposes of this
988 paragraph, the provision of Section 41-7-193(1) requiring
989 substantial compliance with the projection of need as reported in
990 the current State Health Plan is hereby waived.

991 (8) The State Department of Health may issue a certificate
992 of need to any hospital in the state to utilize a portion of its
993 beds for the "swing-bed" concept. Any such hospital must be in
994 conformance with the federal regulations regarding such swing-bed
995 concept at the time it submits its application for a certificate
996 of need to the State Department of Health, except that such
997 hospital may have more licensed beds or a higher average daily
998 census (ADC) than the maximum number specified in federal
999 regulations for participation in the swing-bed program. Any
1000 hospital meeting all federal requirements for participation in the

1001 swing-bed program which receives such certificate of need shall
1002 render services provided under the swing-bed concept to any
1003 patient eligible for Medicare (Title XVIII of the Social Security
1004 Act) who is certified by a physician to be in need of such
1005 services, and no such hospital shall permit any patient who is
1006 eligible for both Medicaid and Medicare or eligible only for
1007 Medicaid to stay in the swing beds of the hospital for more than
1008 thirty (30) days per admission unless the hospital receives prior
1009 approval for such patient from the Division of Medicaid, Office of
1010 the Governor. Any hospital having more licensed beds or a higher
1011 average daily census (ADC) than the maximum number specified in
1012 federal regulations for participation in the swing-bed program
1013 which receives such certificate of need shall develop a procedure
1014 to insure that before a patient is allowed to stay in the swing
1015 beds of the hospital, there are no vacant nursing home beds
1016 available for that patient located within a fifty-mile radius of
1017 the hospital. When any such hospital has a patient staying in the
1018 swing beds of the hospital and the hospital receives notice from a
1019 nursing home located within such radius that there is a vacant bed
1020 available for that patient, the hospital shall transfer the
1021 patient to the nursing home within a reasonable time after receipt
1022 of the notice. Any hospital which is subject to the requirements
1023 of the two (2) preceding sentences of this paragraph may be
1024 suspended from participation in the swing-bed program for a
1025 reasonable period of time by the State Department of Health if the
1026 department, after a hearing complying with due process, determines
1027 that the hospital has failed to comply with any of those
1028 requirements.

1029 (9) The Department of Health shall not grant approval for or
1030 issue a certificate of need to any person proposing the new
1031 construction of, addition to or expansion of a health care
1032 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1033 (10) The Department of Health shall not grant approval for
1034 or issue a certificate of need to any person proposing the

1035 establishment of, or expansion of the currently approved territory
1036 of, or the contracting to establish a home office, subunit or
1037 branch office within the space operated as a health care facility
1038 as defined in Section 41-7-173(h)(i) through (viii) by a health
1039 care facility as defined in subparagraph (ix) of Section
1040 41-7-173(h).

1041 (11) Health care facilities owned and/or operated by the
1042 state or its agencies are exempt from the restraints in this
1043 section against issuance of a certificate of need if such addition
1044 or expansion consists of repairing or renovation necessary to
1045 comply with the state licensure law. This exception shall not
1046 apply to the new construction of any building by such state
1047 facility. This exception shall not apply to any health care
1048 facilities owned and/or operated by counties, municipalities,
1049 districts, unincorporated areas, other defined persons, or any
1050 combination thereof.

1051 (12) The new construction, renovation or expansion of or
1052 addition to any health care facility defined in subparagraph (ii)
1053 (psychiatric hospital), subparagraph (iv) (skilled nursing
1054 facility), subparagraph (vi) (intermediate care facility),
1055 subparagraph (viii) (intermediate care facility for the mentally
1056 retarded) and subparagraph (x) (psychiatric residential treatment
1057 facility) of Section 41-7-173(h) which is owned by the State of
1058 Mississippi and under the direction and control of the State
1059 Department of Mental Health, and the addition of new beds or the
1060 conversion of beds from one category to another in any such
1061 defined health care facility which is owned by the State of
1062 Mississippi and under the direction and control of the State
1063 Department of Mental Health, shall not require the issuance of a
1064 certificate of need under Section 41-7-171 et seq.,
1065 notwithstanding any provision in Section 41-7-171 et seq. to the
1066 contrary.

1067 (13) The new construction, renovation or expansion of or
1068 addition to any veterans homes or domiciliaries for eligible

1069 veterans of the State of Mississippi as authorized under Section
1070 35-1-19 shall not require the issuance of a certificate of need,
1071 notwithstanding any provision in Section 41-7-171 et seq. to the
1072 contrary.

1073 (14) The new construction of a nursing facility or nursing
1074 facility beds or the conversion of other beds to nursing facility
1075 beds shall not require the issuance of a certificate of need,
1076 notwithstanding any provision in Section 41-7-171 et seq. to the
1077 contrary, if the conditions of this subsection are met.

1078 (a) Before any construction or conversion may be
1079 undertaken without a certificate of need, the owner of the nursing
1080 facility, in the case of an existing facility, or the applicant to
1081 construct a nursing facility, in the case of new construction,
1082 first must file a written notice of intent and sign a written
1083 agreement with the State Department of Health that the entire
1084 nursing facility will not at any time participate in or have any
1085 beds certified for participation in the Medicaid program (Section
1086 43-13-101 et seq.), will not admit or keep any patients in the
1087 nursing facility who are participating in the Medicaid program,
1088 and will not submit any claim for Medicaid reimbursement for any
1089 patient in the facility. This written agreement by the owner or
1090 applicant shall be a condition of exercising the authority under
1091 this subsection without a certificate of need, and the agreement
1092 shall be fully binding on any subsequent owner of the nursing
1093 facility if the ownership of the facility is transferred at any
1094 time after the agreement is signed. After the written agreement
1095 is signed, the Division of Medicaid and the State Department of
1096 Health shall not certify any beds in the nursing facility for
1097 participation in the Medicaid program. If the nursing facility
1098 violates the terms of the written agreement by participating in
1099 the Medicaid program, having any beds certified for participation
1100 in the Medicaid program, admitting or keeping any patient in the
1101 facility who is participating in the Medicaid program, or
1102 submitting any claim for Medicaid reimbursement for any patient in

1103 the facility, the State Department of Health shall revoke the
1104 license of the nursing facility at the time that the department
1105 determines, after a hearing complying with due process, that the
1106 facility has violated the terms of the written agreement.

1107 (b) For the purposes of this subsection, participation
1108 in the Medicaid program by a nursing facility includes Medicaid
1109 reimbursement of coinsurance and deductibles for recipients who
1110 are qualified Medicare beneficiaries and/or those who are dually
1111 eligible. Any nursing facility exercising the authority under
1112 this subsection may not bill or submit a claim to the Division of
1113 Medicaid for services to qualified Medicare beneficiaries and/or
1114 those who are dually eligible.

1115 (c) The new construction of a nursing facility or
1116 nursing facility beds or the conversion of other beds to nursing
1117 facility beds described in this section must be either a part of a
1118 completely new continuing care retirement community, as described
1119 in the latest edition of the Mississippi State Health Plan, or an
1120 addition to existing personal care and independent living
1121 components, and so that the completed project will be a continuing
1122 care retirement community, containing (i) independent living
1123 accommodations, (ii) personal care beds, and (iii) the nursing
1124 home facility beds. The three (3) components must be located on a
1125 single site and be operated as one (1) inseparable facility. The
1126 nursing facility component must contain a minimum of thirty (30)
1127 beds. Any nursing facility beds authorized by this section will
1128 not be counted against the bed need set forth in the State Health
1129 Plan, as identified in Section 41-7-171, et seq.

1130 This subsection (14) shall stand repealed from and after July
1131 1, 2001.

1132 (15) The State Department of Health shall issue a
1133 certificate of need for the construction of a twenty-seven
1134 thousand (27,000) square foot building on the Jeff Anderson
1135 Regional Medical Center campus for the purpose of establishing a
1136 comprehensive cancer center that will provide facilities for

1137 out-patient radiation oncology therapy, out-patient medical
1138 oncology therapy, office space for specialty physicians and
1139 appropriate support services including the purchase of a linear
1140 accelerator for radiation therapy. The provision of Section
1141 41-7-193(1) regarding substantial compliance with projection of
1142 need as reported in the current State Health Plan is waived for
1143 the purpose of this subsection.

1144 (16) Nothing in this section or in any other provision of
1145 Section 41-7-171 et seq. shall prevent any nursing facility from
1146 designating an appropriate number of existing beds in the facility
1147 as beds for providing care exclusively to patients with
1148 Alzheimer's disease.

1149 SECTION 2. This act shall take effect and be in force from
1150 and after July 1, 1999.