

By: Representatives Robertson, Bailey,
Dedeaux, Green (96th), Green (34th), Howell,
Ishee, Janus, Jennings, Johnson, Ketchings,
Moore, Smith (59th), Stribling, Wells-Smith,
Woods

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1093

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 NEW CONSTRUCTION OF A NURSING FACILITY IN AMITE
4 COUNTY; TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR
5 NURSING HOME BEDS IN PRENTISS COUNTY; TO AUTHORIZE THE ISSUANCE OF
6 A CERTIFICATE OF NEED FOR NURSING HOME BEDS IN DESOTO COUNTY; TO
7 AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR SKILLED
8 NURSING FACILITY BEDS IN RANKIN COUNTY; TO AUTHORIZE THE ISSUANCE
9 OF A CERTIFICATE OF NEED FOR NURSING HOME BEDS IN CARROLL COUNTY;
10 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR NURSING
11 HOME BEDS IN HARRISON COUNTY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

45 (i) Open heart surgery services;
46 (ii) Cardiac catheterization services;
47 (iii) Comprehensive inpatient rehabilitation
48 services;

49 (iv) Licensed psychiatric services;
50 (v) Licensed chemical dependency services;
51 (vi) Radiation therapy services;
52 (vii) Diagnostic imaging services of an invasive
53 nature, i.e. invasive digital angiography;

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

56 (ix) Home health services;
57 (x) Swing-bed services;
58 (xi) Ambulatory surgical services;
59 (xii) Magnetic resonance imaging services;
60 (xiii) Extracorporeal shock wave lithotripsy
61 services;

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

64 (e) The relocation of one or more health services from
65 one physical facility or site to another physical facility or
66 site, unless such relocation, which does not involve a capital
67 expenditure by or on behalf of a health care facility, is the
68 result of an order of a court of appropriate jurisdiction or a
69 result of pending litigation in such court, or by order of the

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

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

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

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

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

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

103 (k) The contracting of a health care facility as

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

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

116 (a) The total number of nursing home beds as defined in
117 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
118 authorized by such certificates of need issued during the period
119 beginning on July 1, 1989, and ending on June 30, 2000, shall not
120 exceed one thousand eight hundred thirty (1,830) beds. The number
121 of nursing home beds authorized under paragraphs (z), (cc), (dd),
122 (ee) and (ff) of this subsection (2) shall not be counted in the
123 limit on the total number of beds provided for in this paragraph
124 (a).

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

134 Webster General Hospital in Webster County, Tippah County General
135 Hospital in Tippah County, Tishomingo County Hospital in
136 Tishomingo County, North Sunflower County Hospital in Sunflower
137 County, H.C. Watkins Hospital in Clarke County and Northwest

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

146 (c) The department may issue a certificate of need to
147 any person proposing the new construction of any health care
148 facility defined in subparagraphs (iv) and (vi) of Section
149 41-7-173(h) as part of a life care retirement facility, in any
150 county bordering on the Gulf of Mexico in which is located a
151 National Aeronautics and Space Administration facility, not to
152 exceed forty (40) beds, provided that the owner of the health care
153 facility on July 1, 1994, agrees in writing that no more than
154 twenty (20) of the beds in the health care facility will be
155 certified for participation in the Medicaid program (Section
156 43-13-101 et seq.), and that no claim will be submitted for
157 Medicaid reimbursement for more than twenty (20) patients in the
158 health care facility in any day or for any patient in the health
159 care facility who is in a bed that is not Medicaid-certified.
160 This written agreement by the owner of the health care facility on
161 July 1, 1994, shall be fully binding on any subsequent owner of
162 the health care facility if the ownership of the health care
163 facility is transferred at any time after July 1, 1994. After
164 this written agreement is executed, the Division of Medicaid and
165 the State Department of Health shall not certify more than twenty
166 (20) of the beds in the health care facility for participation in
167 the Medicaid program. If the health care facility violates the
168 terms of the written agreement by admitting or keeping in the
169 health care facility on a regular or continuing basis more than
170 twenty (20) patients who are participating in the Medicaid
171 program, the State Department of Health shall revoke the license

172 of the health care facility, at the time that the department
173 determines, after a hearing complying with due process, that the
174 health care facility has violated the terms of the written
175 agreement as provided in this paragraph.

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

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

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

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

204 (h) Provided all criteria specified in the 1989 State
205 Health Plan are met and the proposed nursing home is within no

206 more than a fifteen (15) minute transportation time to an existing
207 hospital, the department may issue a certificate of need for the
208 construction of one (1) sixty-bed nursing home in Benton County.

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

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

219 (k) The department may issue certificates of need in
220 Harrison County to provide skilled nursing home care for
221 Alzheimer's Disease patients and other patients, not to exceed one
222 hundred fifty (150) beds, provided that (i) the owner of the
223 health care facility issued a certificate of need for sixty (60)
224 beds agrees in writing that no more than thirty (30) of the beds
225 in the health care facility will be certified for participation in
226 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
227 of one (1) of the health care facilities issued a certificate of
228 need for forty-five (45) beds agrees in writing that no more than
229 twenty-three (23) of the beds in the health care facility will be
230 certified for participation in the Medicaid program, and (iii) the
231 owner of the other health care facility issued a certificate of
232 need for forty-five (45) beds agrees in writing that no more than
233 twenty-two (22) of the beds in the health care facility will be
234 certified for participation in the Medicaid program, and that no
235 claim will be submitted for Medicaid reimbursement for a number of
236 patients in the health care facility in any day that is greater
237 than the number of beds certified for participation in the
238 Medicaid program or for any patient in the health care facility
239 who is in a bed that is not Medicaid-certified. These written

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

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

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

268 (n) The department may issue a certificate of need to
269 any intermediate care facility as defined in Section
270 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
271 beds, for making additions to or expansion or replacement of the
272 existing facility in order to increase the number of its beds to
273 not more than sixty (60) beds. For the purposes of this

274 paragraph, the provision of Section 41-7-193(1) requiring
275 substantial compliance with the projection of need as reported in
276 the current State Health Plan is waived. The total number of
277 nursing home beds that may be authorized by any certificate of
278 need issued under this paragraph shall not exceed twenty-five (25)
279 beds.

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

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

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

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

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

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

342 of the skilled nursing facility if the ownership of the facility
343 is transferred at any time after the issuance of the certificate
344 of need. After this written agreement is executed, the Division
345 of Medicaid and the State Department of Health shall not certify
346 more than thirty (30) of the beds in the skilled nursing facility
347 for participation in the Medicaid program. If the skilled nursing
348 facility violates the terms of the written agreement by admitting
349 or keeping in the facility on a regular or continuing basis more
350 than thirty (30) patients who are participating in the Medicaid
351 program, the State Department of Health shall revoke the license
352 of the facility, at the time that the department determines, after
353 a hearing complying with due process, that the facility has
354 violated the condition upon which the certificate of need was
355 issued, as provided in this paragraph and in the written
356 agreement. If the skilled nursing facility authorized by the
357 certificate of need issued under this paragraph is not constructed
358 and fully operational within eighteen (18) months after July 1,
359 1994, the State Department of Health, after a hearing complying
360 with due process, shall revoke the certificate of need, if it is
361 still outstanding, and shall not issue a license for the facility
362 at any time after the expiration of the eighteen-month period.

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

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

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

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

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

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

473 (w) The State Department of Health may issue a
474 certificate of need for the construction or expansion of nursing
475 facility beds or the conversion of other beds to nursing facility
476 beds in either Hancock, Harrison or Jackson Counties, not to
477 exceed sixty (60) beds, provided that the recipient of the

478 certificate of need agrees in writing that no more than thirty
479 (30) of the beds at the nursing facility will be certified for
480 participation in the Medicaid program (Section 43-13-101 et seq.),
481 and that no claim will be submitted for Medicaid reimbursement for
482 more than thirty (30) patients in the nursing facility in any day
483 or for any patient in the nursing facility who is in a bed that is
484 not Medicaid-certified. This written agreement by the recipient
485 of the certificate of need shall be a condition of the issuance of
486 the certificate of need under this paragraph, and the agreement
487 shall be fully binding on any subsequent owner of the nursing
488 facility if the ownership of the nursing facility is transferred
489 at any time after the issuance of the certificate of need. After
490 this written agreement is executed, the Division of Medicaid and
491 the State Department of Health shall not certify more than thirty
492 (30) of the beds in the nursing facility for participation in the
493 Medicaid program. If the nursing facility violates the terms of
494 the written agreement by admitting or keeping in the nursing
495 facility on a regular or continuing basis more than thirty (30)
496 patients who are participating in the Medicaid program, the State
497 Department of Health shall revoke the license of the nursing
498 facility, at the time that the department determines, after a
499 hearing complying with due process, that the nursing facility has
500 violated the condition upon which the certificate of need was
501 issued, as provided in this paragraph and in the written
502 agreement. If the nursing facility or nursing facility beds
503 authorized by the certificate of need issued under this paragraph
504 are not constructed, expanded or converted and fully operational
505 within thirty-six (36) months after July 1, 1994, the State
506 Department of Health, after a hearing complying with due process,
507 shall revoke the certificate of need, if it is still outstanding,
508 and shall not issue a license for the nursing facility or nursing
509 facility beds at any time after the expiration of the
510 thirty-six-month period.

511 (x) The department may issue a certificate of need for

512 the new construction of a skilled nursing facility in Leake
513 County, provided that the recipient of the certificate of need
514 agrees in writing that the skilled nursing facility will not at
515 any time participate in the Medicaid program (Section 43-13-101 et
516 seq.) or admit or keep any patients in the skilled nursing
517 facility who are participating in the Medicaid program. This
518 written agreement by the recipient of the certificate of need
519 shall be fully binding on any subsequent owner of the skilled
520 nursing facility, if the ownership of the facility is transferred
521 at any time after the issuance of the certificate of need.
522 Agreement that the skilled nursing facility will not participate
523 in the Medicaid program shall be a condition of the issuance of a
524 certificate of need to any person under this paragraph (x), and if
525 such skilled nursing facility at any time after the issuance of
526 the certificate of need, regardless of the ownership of the
527 facility, participates in the Medicaid program or admits or keeps
528 any patients in the facility who are participating in the Medicaid
529 program, the State Department of Health shall revoke the
530 certificate of need, if it is still outstanding, and shall deny or
531 revoke the license of the skilled nursing facility, at the time
532 that the department determines, after a hearing complying with due
533 process, that the facility has failed to comply with any of the
534 conditions upon which the certificate of need was issued, as
535 provided in this paragraph and in the written agreement by the
536 recipient of the certificate of need. The provision of Section
537 43-7-193(1) regarding substantial compliance of the projection of
538 need as reported in the current State Health Plan is waived for
539 the purposes of this paragraph. The total number of nursing
540 facility beds that may be authorized by any certificate of need
541 issued under this paragraph (x) shall not exceed sixty (60) beds.
542 If the skilled nursing facility authorized by the certificate of
543 need issued under this paragraph is not constructed and fully
544 operational within eighteen (18) months after July 1, 1994, the
545 State Department of Health, after a hearing complying with due

546 process, shall revoke the certificate of need, if it is still
547 outstanding, and shall not issue a license for the skilled nursing
548 facility at any time after the expiration of the eighteen-month
549 period.

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

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

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

595 (aa) The department may issue a certificate of need for
596 the construction of a nursing facility at a continuing care
597 retirement community in Lowndes County, provided that the
598 recipient of the certificate of need agrees in writing that the
599 nursing facility will not at any time participate in the Medicaid
600 program (Section 43-13-101 et seq.) or admit or keep any patients
601 in the nursing facility who are participating in the Medicaid
602 program. This written agreement by the recipient of the
603 certificate of need shall be fully binding on any subsequent owner
604 of the nursing facility, if the ownership of the facility is
605 transferred at any time after the issuance of the certificate of
606 need. Agreement that the nursing facility will not participate in
607 the Medicaid program shall be a condition of the issuance of a
608 certificate of need to any person under this paragraph (aa), and
609 if such nursing facility at any time after the issuance of the
610 certificate of need, regardless of the ownership of the facility,
611 participates in the Medicaid program or admits or keeps any
612 patients in the facility who are participating in the Medicaid
613 program, the State Department of Health shall revoke the

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

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

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

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

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

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

716 the certificate of need is contested, the department shall require
717 substantial construction of the nursing facility beds within six
718 (6) months after final adjudication on the issuance of the
719 certificate of need.

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

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

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

776 Agreement that the skilled nursing facility will not participate
777 in the Medicaid program shall be a condition of the issuance of a
778 certificate of need to any person under this paragraph (ff), and
779 if such skilled nursing facility at any time after the issuance of
780 the certificate of need, regardless of the ownership of the
781 facility, participates in the Medicaid program or admits or keeps
782 any patients in the facility who are participating in the Medicaid
783 program, the State Department of Health shall revoke the

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

810 (gg) The State Department of Health may issue a
811 certificate of need for the new construction of a nursing
812 facility, not exceeding sixty (60) beds, in Amite County, which is
813 the only county with a population of more than ten thousand
814 (10,000), according to the 1990 federal census, that has no
815 nursing beds and no hospital.

816 (hh) The department may issue a certificate of need to
817 provide nursing home care in Prentiss County, not to exceed sixty

818 (60) beds.

819 (ii) The department may issue a certificate of need to
820 provide nursing home care in DeSoto County, not to exceed sixty
821 (60) beds.

822 (jj) The State Department of Health may issue a
823 certificate of need for the new construction of a nursing facility
824 with sixty (60) skilled nursing facility beds in Rankin County. _

825 (kk) The State Department of Health may issue a
826 certificate of need for the new construction of a nursing
827 facility, not exceeding sixty (60) beds, in Carroll County.

828 (ll) The department may issue a certificate of need to
829 provide nursing home care in Harrison County, not to exceed sixty
830 (60) beds.

831 (3) If the holder of the certificate of need that was issued
832 before January 1, 1990, for the construction of a nursing home in
833 Claiborne County has not substantially undertaken commencement of
834 construction by completing site works and pouring foundations and
835 the floor slab of a nursing home in Claiborne County before May 1,
836 1990, as determined by the department, then the department shall
837 transfer such certificate of need to the Board of Supervisors of
838 Claiborne County upon the effective date of this subsection (3).
839 If the certificate of need is transferred to the board of
840 supervisors, it shall be valid for a period of twelve (12) months
841 and shall authorize the construction of a sixty-bed nursing home
842 on county-owned property or the conversion of vacant hospital beds
843 in the county hospital not to exceed sixty (60) beds.

844 (4) The State Department of Health may grant approval for
845 and issue certificates of need to any person proposing the new
846 construction of, addition to, conversion of beds of or expansion
847 of any health care facility defined in subparagraph (x)
848 (psychiatric residential treatment facility) of Section
849 41-7-173(h). The total number of beds which may be authorized by
850 such certificates of need shall not exceed two hundred
851 seventy-four (274) beds for the entire state.

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

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

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

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

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

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

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

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

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

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

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

1000 (ii) The department may issue a certificate of
1001 need for the conversion of existing beds in a county hospital in
1002 Choctaw County from acute care beds to child/adolescent chemical
1003 dependency beds. For purposes of this paragraph, the provisions
1004 of Section 41-7-193(1) requiring substantial compliance with the
1005 projection of need as reported in the current State Health Plan is
1006 waived. The total number of beds that may be authorized under
1007 authority of this paragraph shall not exceed twenty (20) beds.
1008 There shall be no prohibition or restrictions on participation in
1009 the Medicaid program (Section 43-13-101 et seq.) for the hospital
1010 receiving the certificate of need authorized under this
1011 subparagraph (a)(ii) or for the beds converted pursuant to the
1012 authority of that certificate of need.

1013 (iii) The department may issue a certificate or
1014 certificates of need for the construction or expansion of
1015 child/adolescent psychiatric beds or the conversion of other beds
1016 to child/adolescent psychiatric beds in Warren County. For
1017 purposes of this subparagraph, the provisions of Section
1018 41-7-193(1) requiring substantial compliance with the projection
1019 of need as reported in the current State Health Plan are waived.
1020 The total number of beds that may be authorized under the
1021 authority of this subparagraph shall not exceed twenty (20) beds.

1022 There shall be no prohibition or restrictions on participation in
1023 the Medicaid program (Section 43-13-101 et seq.) for the person
1024 receiving the certificate of need authorized under this
1025 subparagraph (a)(iii) or for the beds converted pursuant to the
1026 authority of that certificate of need.

1027 (iv) The department shall issue a certificate of
1028 need to the Region 7 Mental Health/Retardation Commission for the
1029 construction or expansion of child/adolescent psychiatric beds or
1030 the conversion of other beds to child/adolescent psychiatric beds
1031 in any of the counties served by the commission. For purposes of
1032 this subparagraph, the provisions of Section 41-7-193(1) requiring
1033 substantial compliance with the projection of need as reported in
1034 the current State Health Plan is waived. The total number of beds
1035 that may be authorized under the authority of this subparagraph
1036 shall not exceed twenty (20) beds. There shall be no prohibition
1037 or restrictions on participation in the Medicaid program (Section
1038 43-13-101 et seq.) for the person receiving the certificate of
1039 need authorized under this subparagraph (a)(iv) or for the beds
1040 converted pursuant to the authority of that certificate of need.

1041 (v) The department may issue a certificate of need
1042 to any county hospital located in Leflore County for the
1043 construction or expansion of adult psychiatric beds or the
1044 conversion of other beds to adult psychiatric beds, not to exceed
1045 twenty (20) beds, provided that the recipient of the certificate
1046 of need agrees in writing that the adult psychiatric beds will not
1047 at any time be certified for participation in the Medicaid program
1048 and that the hospital will not admit or keep any patients who are
1049 participating in the Medicaid program in any of such adult
1050 psychiatric beds. This written agreement by the recipient of the
1051 certificate of need shall be fully binding on any subsequent owner
1052 of the hospital if the ownership of the hospital is transferred at
1053 any time after the issuance of the certificate of need. Agreement
1054 that the adult psychiatric beds will not be certified for
1055 participation in the Medicaid program shall be a condition of the

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

1069 (b) From and after July 1, 1990, no hospital,
1070 psychiatric hospital or chemical dependency hospital shall be
1071 authorized to add any child/adolescent psychiatric or
1072 child/adolescent chemical dependency beds or convert any beds of
1073 another category to child/adolescent psychiatric or
1074 child/adolescent chemical dependency beds without a certificate of
1075 need under the authority of subsection (1)(c) of this section.

1076 (6) The department may issue a certificate of need to a
1077 county hospital in Winston County for the conversion of fifteen
1078 (15) acute care beds to geriatric psychiatric care beds.

1079 (7) The State Department of Health shall issue a certificate
1080 of need to a Mississippi corporation qualified to manage a
1081 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1082 Harrison County, not to exceed eighty (80) beds, including any
1083 necessary renovation or construction required for licensure and
1084 certification, provided that the recipient of the certificate of
1085 need agrees in writing that the long-term care hospital will not
1086 at any time participate in the Medicaid program (Section 43-13-101
1087 et seq.) or admit or keep any patients in the long-term care
1088 hospital who are participating in the Medicaid program. This
1089 written agreement by the recipient of the certificate of need

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

1111 (8) The State Department of Health may issue a certificate
1112 of need to any hospital in the state to utilize a portion of its
1113 beds for the "swing-bed" concept. Any such hospital must be in
1114 conformance with the federal regulations regarding such swing-bed
1115 concept at the time it submits its application for a certificate
1116 of need to the State Department of Health, except that such
1117 hospital may have more licensed beds or a higher average daily
1118 census (ADC) than the maximum number specified in federal
1119 regulations for participation in the swing-bed program. Any
1120 hospital meeting all federal requirements for participation in the
1121 swing-bed program which receives such certificate of need shall
1122 render services provided under the swing-bed concept to any
1123 patient eligible for Medicare (Title XVIII of the Social Security

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

1149 (9) The Department of Health shall not grant approval for or
1150 issue a certificate of need to any person proposing the new
1151 construction of, addition to or expansion of a health care
1152 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1153 (10) The Department of Health shall not grant approval for
1154 or issue a certificate of need to any person proposing the
1155 establishment of, or expansion of the currently approved territory
1156 of, or the contracting to establish a home office, subunit or
1157 branch office within the space operated as a health care facility

1158 as defined in Section 41-7-173(h)(i) through (viii) by a health
1159 care facility as defined in subparagraph (ix) of Section
1160 41-7-173(h).

1161 (11) Health care facilities owned and/or operated by the
1162 state or its agencies are exempt from the restraints in this
1163 section against issuance of a certificate of need if such addition
1164 or expansion consists of repairing or renovation necessary to
1165 comply with the state licensure law. This exception shall not
1166 apply to the new construction of any building by such state
1167 facility. This exception shall not apply to any health care
1168 facilities owned and/or operated by counties, municipalities,
1169 districts, unincorporated areas, other defined persons, or any
1170 combination thereof.

1171 (12) The new construction, renovation or expansion of or
1172 addition to any health care facility defined in subparagraph (ii)
1173 (psychiatric hospital), subparagraph (iv) (skilled nursing
1174 facility), subparagraph (vi) (intermediate care facility),
1175 subparagraph (viii) (intermediate care facility for the mentally
1176 retarded) and subparagraph (x) (psychiatric residential treatment
1177 facility) of Section 41-7-173(h) which is owned by the State of
1178 Mississippi and under the direction and control of the State
1179 Department of Mental Health, and the addition of new beds or the
1180 conversion of beds from one category to another in any such
1181 defined health care facility which is owned by the State of
1182 Mississippi and under the direction and control of the State
1183 Department of Mental Health, shall not require the issuance of a
1184 certificate of need under Section 41-7-171 et seq.,
1185 notwithstanding any provision in Section 41-7-171 et seq. to the
1186 contrary.

1187 (13) The new construction, renovation or expansion of or
1188 addition to any veterans homes or domiciliaries for eligible
1189 veterans of the State of Mississippi as authorized under Section
1190 35-1-19 shall not require the issuance of a certificate of need,
1191 notwithstanding any provision in Section 41-7-171 et seq. to the

1192 contrary.

1193 (14) The new construction of a nursing facility or nursing
1194 facility beds or the conversion of other beds to nursing facility
1195 beds shall not require the issuance of a certificate of need,
1196 notwithstanding any provision in Section 41-7-171 et seq. to the
1197 contrary, if the conditions of this subsection are met.

1198 (a) Before any construction or conversion may be
1199 undertaken without a certificate of need, the owner of the nursing
1200 facility, in the case of an existing facility, or the applicant to
1201 construct a nursing facility, in the case of new construction,
1202 first must file a written notice of intent and sign a written
1203 agreement with the State Department of Health that the entire
1204 nursing facility will not at any time participate in or have any
1205 beds certified for participation in the Medicaid program (Section
1206 43-13-101 et seq.), will not admit or keep any patients in the
1207 nursing facility who are participating in the Medicaid program,
1208 and will not submit any claim for Medicaid reimbursement for any
1209 patient in the facility. This written agreement by the owner or
1210 applicant shall be a condition of exercising the authority under
1211 this subsection without a certificate of need, and the agreement
1212 shall be fully binding on any subsequent owner of the nursing
1213 facility if the ownership of the facility is transferred at any
1214 time after the agreement is signed. After the written agreement
1215 is signed, the Division of Medicaid and the State Department of
1216 Health shall not certify any beds in the nursing facility for
1217 participation in the Medicaid program. If the nursing facility
1218 violates the terms of the written agreement by participating in
1219 the Medicaid program, having any beds certified for participation
1220 in the Medicaid program, admitting or keeping any patient in the
1221 facility who is participating in the Medicaid program, or
1222 submitting any claim for Medicaid reimbursement for any patient in
1223 the facility, the State Department of Health shall revoke the
1224 license of the nursing facility at the time that the department
1225 determines, after a hearing complying with due process, that the

1226 facility has violated the terms of the written agreement.

1227 (b) For the purposes of this subsection, participation
1228 in the Medicaid program by a nursing facility includes Medicaid
1229 reimbursement of coinsurance and deductibles for recipients who
1230 are qualified Medicare beneficiaries and/or those who are dually
1231 eligible. Any nursing facility exercising the authority under
1232 this subsection may not bill or submit a claim to the Division of
1233 Medicaid for services to qualified Medicare beneficiaries and/or
1234 those who are dually eligible.

1235 (c) The new construction of a nursing facility or
1236 nursing facility beds or the conversion of other beds to nursing
1237 facility beds described in this section must be either a part of a
1238 completely new continuing care retirement community, as described
1239 in the latest edition of the Mississippi State Health Plan, or an
1240 addition to existing personal care and independent living
1241 components, and so that the completed project will be a continuing
1242 care retirement community, containing (i) independent living
1243 accommodations, (ii) personal care beds, and (iii) the nursing
1244 home facility beds. The three (3) components must be located on a
1245 single site and be operated as one (1) inseparable facility. The
1246 nursing facility component must contain a minimum of thirty (30)
1247 beds. Any nursing facility beds authorized by this section will
1248 not be counted against the bed need set forth in the State Health
1249 Plan, as identified in Section 41-7-171, et seq.

1250 This subsection (14) shall stand repealed from and after July
1251 1, 2001.

1252 SECTION 2. This act shall take effect and be in force from
1253 and after its passage.