

By: Representative Malone

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1299

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO SPECIFY THE RECIPIENT OF THE CERTIFICATE OF NEED AUTHORIZED FOR
3 NON-MEDICAID NURSING HOME BEDS IN LEAKE COUNTY; TO EXTEND THE TIME
4 WITHIN WHICH THE CERTIFICATE OF NEED MUST BE ISSUED AND WITHIN
5 WHICH SUBSTANTIAL CONSTRUCTION OF THE NURSING HOME BEDS MUST
6 BEGIN; AND FOR RELATED PURPOSES.

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

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

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

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

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

17 (c) A change over a period of two (2) years' time, as
18 established by the State Department of Health, in existing bed
19 complement through the addition of more than ten (10) beds or more
20 than ten percent (10%) of the total bed capacity of a designated
21 licensed category or subcategory of any health care facility,
22 whichever is less, from one physical facility or site to another;
23 the conversion over a period of two (2) years' time, as
24 established by the State Department of Health, of existing bed
25 complement of more than ten (10) beds or more than ten percent
26 (10%) of the total bed capacity of a designated licensed category
27 or subcategory of any such health care facility, whichever is
28 less; or the alteration, modernizing or refurbishing of any unit
29 or department wherein such beds may be located; provided, however,

30 that from and after July 1, 1994, no health care facility shall be
31 authorized to add any beds or convert any beds to another category
32 of beds without a certificate of need under the authority of
33 subsection (1)(c) of this section unless there is a projected need
34 for such beds in the planning district in which the facility is
35 located, as reported in the most current State Health Plan;

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

40 (i) Open heart surgery services;

41 (ii) Cardiac catheterization services;

42 (iii) Comprehensive inpatient rehabilitation
43 services;

44 (iv) Licensed psychiatric services;

45 (v) Licensed chemical dependency services;

46 (vi) Radiation therapy services;

47 (vii) Diagnostic imaging services of an invasive
48 nature, i.e. invasive digital angiography;

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

51 (ix) Home health services;

52 (x) Swing-bed services;

53 (xi) Ambulatory surgical services;

54 (xii) Magnetic resonance imaging services;

55 (xiii) Extracorporeal shock wave lithotripsy
56 services;

57 (xiv) Long-term care hospital services;

58 (xv) Positron Emission Tomography (PET) Services;

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

68 the State Department of Health;

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

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

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

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

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

98 (k) The contracting of a health care facility as
99 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
100 to establish a home office, subunit, or branch office in the space
101 operated as a health care facility through a formal arrangement

102 with an existing health care facility as defined in subparagraph
103 (ix) of Section 41-7-173(h).

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

111 (a) The total number of nursing home beds as defined in
112 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
113 authorized by such certificates of need issued during the period
114 beginning on July 1, 1989, and ending on June 30, 2000, shall not
115 exceed one thousand four hundred seventy (1,470) beds. The number
116 of nursing home beds authorized under paragraphs (z), (cc), (dd),
117 (ee) and (ff) of this subsection (2) shall not be counted in the
118 limit on the total number of beds provided for in this paragraph
119 (a).

120 (b) The department may issue a certificate of need to
121 any of the hospitals in the state which have a distinct part
122 component of the hospital that was constructed for extended care
123 use (nursing home care) but is not currently licensed to provide
124 nursing home care, which certificate of need will authorize the
125 distinct part component to be operated to provide nursing home
126 care after a license is obtained. The six (6) hospitals which
127 currently have these distinct part components and which are
128 eligible for a certificate of need under this section are:
129 Webster General Hospital in Webster County, Tippah County General
130 Hospital in Tippah County, Tishomingo County Hospital in
131 Tishomingo County, North Sunflower County Hospital in Sunflower
132 County, H.C. Watkins Hospital in Clarke County and Northwest
133 Regional Medical Center in Coahoma County. Because the facilities
134 to be considered currently exist and no new construction is
135 required, the provision of Section 41-7-193(1) regarding

136 substantial compliance with the projection of need as reported in
137 the 1989 State Health Plan is waived. The total number of nursing
138 home care beds that may be authorized by certificates of need
139 issued under this paragraph shall not exceed one hundred
140 fifty-four (154) beds.

141 (c) The department may issue a certificate of need to
142 any person proposing the new construction of any health care
143 facility defined in subparagraphs (iv) and (vi) of Section
144 41-7-173(h) as part of a life care retirement facility, in any
145 county bordering on the Gulf of Mexico in which is located a
146 National Aeronautics and Space Administration facility, not to
147 exceed forty (40) beds, provided that the owner of the health care
148 facility on July 1, 1994, agrees in writing that no more than
149 twenty (20) of the beds in the health care facility will be
150 certified for participation in the Medicaid program (Section
151 43-13-101 et seq.), and that no claim will be submitted for
152 Medicaid reimbursement for more than twenty (20) patients in the
153 health care facility in any day or for any patient in the health
154 care facility who is in a bed that is not Medicaid-certified.
155 This written agreement by the owner of the health care facility on
156 July 1, 1994, shall be fully binding on any subsequent owner of
157 the health care facility if the ownership of the health care
158 facility is transferred at any time after July 1, 1994. After
159 this written agreement is executed, the Division of Medicaid and
160 the State Department of Health shall not certify more than twenty
161 (20) of the beds in the health care facility for participation in
162 the Medicaid program. If the health care facility violates the
163 terms of the written agreement by admitting or keeping in the
164 health care facility on a regular or continuing basis more than
165 twenty (20) patients who are participating in the Medicaid
166 program, the State Department of Health shall revoke the license
167 of the health care facility, at the time that the department
168 determines, after a hearing complying with due process, that the
169 health care facility has violated the terms of the written

170 agreement as provided in this paragraph.

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

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

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

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

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

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

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

214 (k) The department may issue certificates of need in
215 Harrison County to provide skilled nursing home care for
216 Alzheimer's Disease patients and other patients, not to exceed one
217 hundred fifty (150) beds, provided that (i) the owner of the
218 health care facility issued a certificate of need for sixty (60)
219 beds agrees in writing that no more than thirty (30) of the beds
220 in the health care facility will be certified for participation in
221 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
222 of one (1) of the health care facilities issued a certificate of
223 need for forty-five (45) beds agrees in writing that no more than
224 twenty-three (23) of the beds in the health care facility will be
225 certified for participation in the Medicaid program, and (iii) the
226 owner of the other health care facility issued a certificate of
227 need for forty-five (45) beds agrees in writing that no more than
228 twenty-two (22) of the beds in the health care facility will be
229 certified for participation in the Medicaid program, and that no
230 claim will be submitted for Medicaid reimbursement for a number of
231 patients in the health care facility in any day that is greater
232 than the number of beds certified for participation in the
233 Medicaid program or for any patient in the health care facility
234 who is in a bed that is not Medicaid-certified. These written
235 agreements by the owners of the health care facilities on July 1,
236 1995, shall be fully binding on any subsequent owner of any of the
237 health care facilities if the ownership of any of the health care

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

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

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

263 (n) The department may issue a certificate of need to
264 any intermediate care facility as defined in Section
265 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
266 beds, for making additions to or expansion or replacement of the
267 existing facility in order to increase the number of its beds to
268 not more than sixty (60) beds. For the purposes of this
269 paragraph, the provision of Section 41-7-193(1) requiring
270 substantial compliance with the projection of need as reported in
271 the current State Health Plan is waived. The total number of

272 nursing home beds that may be authorized by any certificate of
273 need issued under this paragraph shall not exceed twenty-five (25)
274 beds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

506 (x) The department may issue a certificate of need for
507 the new construction of a skilled nursing facility in Leake
508 County, provided that the recipient of the certificate of need
509 agrees in writing that the skilled nursing facility will not at

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

544 period.

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

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

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

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

612 that the facility has failed to comply with any of the conditions
613 upon which the certificate of need was issued, as provided in this
614 paragraph and in the written agreement by the recipient of the
615 certificate of need. The total number of beds that may be
616 authorized under the authority of this paragraph (aa) shall not
617 exceed sixty (60) beds.

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

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

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

671 (dd) The department may issue a certificate of need for
672 the new construction, addition or conversion of skilled nursing
673 facility beds in Madison County, provided that the recipient of
674 the certificate of need agrees in writing that the skilled nursing
675 facility will not at any time participate in the Medicaid program
676 (Section 43-13-101 et seq.) or admit or keep any patients in the
677 skilled nursing facility who are participating in the Medicaid
678 program. This written agreement by the recipient of the
679 certificate of need shall be fully binding on any subsequent owner

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

714 certificate of need.

715 (ee) The department may issue a certificate of need to
716 Care First d/b/a Leake Memorial Hospital for the new construction,
717 addition or conversion of skilled nursing facility beds in Leake
718 County, provided that the recipient of the certificate of need
719 agrees in writing that the skilled nursing facility will not at
720 any time participate in the Medicaid program (Section 43-13-101 et
721 seq.) or admit or keep any patients in the skilled nursing
722 facility who are participating in the Medicaid program. This
723 written agreement by the recipient of the certificate of need
724 shall be fully binding on any subsequent owner of the skilled
725 nursing facility, if the ownership of the facility is transferred
726 at any time after the issuance of the certificate of need.

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

744 If the certificate of need authorized under this paragraph is not
745 issued within twelve (12) months after July 1, 1999, the
746 department shall deny the application for the certificate of need
747 and shall not issue the certificate of need at any time after the

748 twelve-month period, unless the issuance is contested. If the
749 certificate of need is issued and substantial construction of the
750 nursing facility beds has not commenced within thirty-six (36)
751 months after July 1, 1999, the State Department of Health, after a
752 hearing complying with due process, shall revoke the certificate
753 of need if it is still outstanding, and the department shall not
754 issue a license for the nursing facility at any time after the
755 eighteen-month period. Provided, however, that if the issuance of
756 the certificate of need is contested, the department shall require
757 substantial construction of the nursing facility beds within six
758 (6) months after final adjudication on the issuance of the
759 certificate of need.

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

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

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

806 (3) If the holder of the certificate of need that was issued
807 before January 1, 1990, for the construction of a nursing home in
808 Claiborne County has not substantially undertaken commencement of
809 construction by completing site works and pouring foundations and
810 the floor slab of a nursing home in Claiborne County before May 1,
811 1990, as determined by the department, then the department shall
812 transfer such certificate of need to the Board of Supervisors of
813 Claiborne County upon the effective date of this subsection (3).
814 If the certificate of need is transferred to the board of
815 supervisors, it shall be valid for a period of twelve (12) months

816 and shall authorize the construction of a sixty-bed nursing home
817 on county-owned property or the conversion of vacant hospital beds
818 in the county hospital not to exceed sixty (60) beds.

819 (4) The State Department of Health may grant approval for
820 and issue certificates of need to any person proposing the new
821 construction of, addition to, conversion of beds of or expansion
822 of any health care facility defined in subparagraph (x)
823 (psychiatric residential treatment facility) of Section
824 41-7-173(h). The total number of beds which may be authorized by
825 such certificates of need shall not exceed two hundred
826 seventy-four (274) beds for the entire state.

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

836 (b) Of the total number of beds authorized under this
837 subsection, the department may issue a certificate or certificates
838 of need for the construction or expansion of psychiatric
839 residential treatment facility beds or the conversion of other
840 beds to psychiatric residential treatment facility beds in Warren
841 County, not to exceed sixty (60) psychiatric residential treatment
842 facility beds, provided that the facility agrees in writing that
843 no more than thirty (30) of the beds at the psychiatric
844 residential treatment facility will be certified for participation
845 in the Medicaid program (Section 43-13-101 et seq.) for the use of
846 any patients other than those who are participating only in the
847 Medicaid program of another state, and that no claim will be
848 submitted to the Division of Medicaid for Medicaid reimbursement
849 for more than thirty (30) patients in the psychiatric residential

850 treatment facility in any day or for any patient in the
851 psychiatric residential treatment facility who is in a bed that is
852 not Medicaid-certified. This written agreement by the recipient
853 of the certificate of need shall be a condition of the issuance of
854 the certificate of need under this paragraph, and the agreement
855 shall be fully binding on any subsequent owner of the psychiatric
856 residential treatment facility if the ownership of the facility is
857 transferred at any time after the issuance of the certificate of
858 need. After this written agreement is executed, the Division of
859 Medicaid and the State Department of Health shall not certify more
860 than thirty (30) of the beds in the psychiatric residential
861 treatment facility for participation in the Medicaid program for
862 the use of any patients other than those who are participating
863 only in the Medicaid program of another state. If the psychiatric
864 residential treatment facility violates the terms of the written
865 agreement by admitting or keeping in the facility on a regular or
866 continuing basis more than thirty (30) patients who are
867 participating in the Mississippi Medicaid program, the State
868 Department of Health shall revoke the license of the facility, at
869 the time that the department determines, after a hearing complying
870 with due process, that the facility has violated the condition
871 upon which the certificate of need was issued, as provided in this
872 paragraph and in the written agreement.

873 (c) Of the total number of beds authorized under this
874 subsection, the department shall issue a certificate of need to a
875 hospital currently operating Medicaid-certified acute psychiatric
876 beds for adolescents in DeSoto County, for the establishment of a
877 forty-bed psychiatric residential treatment facility in DeSoto
878 County, provided that the hospital agrees in writing (i) that the
879 hospital shall give priority for the use of those forty (40) beds
880 to Mississippi residents who are presently being treated in
881 out-of-state facilities, and (ii) that no more than fifteen (15)
882 of the beds at the psychiatric residential treatment facility will
883 be certified for participation in the Medicaid program (Section

884 43-13-101 et seq.), and that no claim will be submitted for
885 Medicaid reimbursement for more than fifteen (15) patients in the
886 psychiatric residential treatment facility in any day or for any
887 patient in the psychiatric residential treatment facility who is
888 in a bed that is not Medicaid-certified. This written agreement
889 by the recipient of the certificate of need shall be a condition
890 of the issuance of the certificate of need under this paragraph,
891 and the agreement shall be fully binding on any subsequent owner
892 of the psychiatric residential treatment facility if the ownership
893 of the facility is transferred at any time after the issuance of
894 the certificate of need. After this written agreement is
895 executed, the Division of Medicaid and the State Department of
896 Health shall not certify more than fifteen (15) of the beds in the
897 psychiatric residential treatment facility for participation in
898 the Medicaid program. If the psychiatric residential treatment
899 facility violates the terms of the written agreement by admitting
900 or keeping in the facility on a regular or continuing basis more
901 than fifteen (15) patients who are participating in the Medicaid
902 program, the State Department of Health shall revoke the license
903 of the facility, at the time that the department determines, after
904 a hearing complying with due process, that the facility has
905 violated the condition upon which the certificate of need was
906 issued, as provided in this paragraph and in the written
907 agreement.

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

916 (e) Of the total number of beds authorized under this
917 subsection (4) the department shall issue a certificate of need to

918 a privately owned, nonprofit psychiatric residential treatment
919 facility in Hinds County for an eight-bed expansion of the
920 facility, provided that the facility agrees in writing that the
921 facility shall give priority for the use of those eight (8) beds
922 to Mississippi residents who are presently being treated in
923 out-of-state facilities.

924 (5) (a) From and after July 1, 1993, the department shall
925 not issue a certificate of need to any person for the new
926 construction of any hospital, psychiatric hospital or chemical
927 dependency hospital that will contain any child/adolescent
928 psychiatric or child/adolescent chemical dependency beds, or for
929 the conversion of any other health care facility to a hospital,
930 psychiatric hospital or chemical dependency hospital that will
931 contain any child/adolescent psychiatric or child/adolescent
932 chemical dependency beds, or for the addition of any
933 child/adolescent psychiatric or child/adolescent chemical
934 dependency beds in any hospital, psychiatric hospital or chemical
935 dependency hospital, or for the conversion of any beds of another
936 category in any hospital, psychiatric hospital or chemical
937 dependency hospital to child/adolescent psychiatric or
938 child/adolescent chemical dependency beds, except as hereinafter
939 authorized:

940 (i) The department may issue certificates of need
941 to any person for any purpose described in this subsection,
942 provided that the hospital, psychiatric hospital or chemical
943 dependency hospital does not participate in the Medicaid program
944 (Section 43-13-101 et seq.) at the time of the application for the
945 certificate of need and the owner of the hospital, psychiatric
946 hospital or chemical dependency hospital agrees in writing that
947 the hospital, psychiatric hospital or chemical dependency hospital
948 will not at any time participate in the Medicaid program or admit
949 or keep any patients who are participating in the Medicaid program
950 in the hospital, psychiatric hospital or chemical dependency
951 hospital. This written agreement by the recipient of the

952 certificate of need shall be fully binding on any subsequent owner
953 of the hospital, psychiatric hospital or chemical dependency
954 hospital, if the ownership of the facility is transferred at any
955 time after the issuance of the certificate of need. Agreement
956 that the hospital, psychiatric hospital or chemical dependency
957 hospital will not participate in the Medicaid program shall be a
958 condition of the issuance of a certificate of need to any person
959 under this subparagraph (a)(i), and if such hospital, psychiatric
960 hospital or chemical dependency hospital at any time after the
961 issuance of the certificate of need, regardless of the ownership
962 of the facility, participates in the Medicaid program or admits or
963 keeps any patients in the hospital, psychiatric hospital or
964 chemical dependency hospital who are participating in the Medicaid
965 program, the State Department of Health shall revoke the
966 certificate of need, if it is still outstanding, and shall deny or
967 revoke the license of the hospital, psychiatric hospital or
968 chemical dependency hospital, at the time that the department
969 determines, after a hearing complying with due process, that the
970 hospital, psychiatric hospital or chemical dependency hospital has
971 failed to comply with any of the conditions upon which the
972 certificate of need was issued, as provided in this subparagraph
973 and in the written agreement by the recipient of the certificate
974 of need.

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

986 subparagraph (a)(ii) or for the beds converted pursuant to the
987 authority of that certificate of need.

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

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

1002 (iv) The department shall issue a certificate of
1003 need to the Region 7 Mental Health/Retardation Commission for the
1004 construction or expansion of child/adolescent psychiatric beds or
1005 the conversion of other beds to child/adolescent psychiatric beds
1006 in any of the counties served by the commission. For purposes of
1007 this subparagraph, the provisions of Section 41-7-193(1) requiring
1008 substantial compliance with the projection of need as reported in
1009 the current State Health Plan is waived. The total number of beds
1010 that may be authorized under the authority of this subparagraph
1011 shall not exceed twenty (20) beds. There shall be no prohibition
1012 or restrictions on participation in the Medicaid program (Section
1013 43-13-101 et seq.) for the person receiving the certificate of
1014 need authorized under this subparagraph (a)(iv) or for the beds
1015 converted pursuant to the authority of that certificate of need.

1016 (v) The department may issue a certificate of need
1017 to any county hospital located in Leflore County for the
1018 construction or expansion of adult psychiatric beds or the
1019 conversion of other beds to adult psychiatric beds, not to exceed

1020 twenty (20) beds, provided that the recipient of the certificate
1021 of need agrees in writing that the adult psychiatric beds will not
1022 at any time be certified for participation in the Medicaid program
1023 and that the hospital will not admit or keep any patients who are
1024 participating in the Medicaid program in any of such adult
1025 psychiatric beds. This written agreement by the recipient of the
1026 certificate of need shall be fully binding on any subsequent owner
1027 of the hospital if the ownership of the hospital is transferred at
1028 any time after the issuance of the certificate of need. Agreement
1029 that the adult psychiatric beds will not be certified for
1030 participation in the Medicaid program shall be a condition of the
1031 issuance of a certificate of need to any person under this
1032 subparagraph (a)(v), and if such hospital at any time after the
1033 issuance of the certificate of need, regardless of the ownership
1034 of the hospital, has any of such adult psychiatric beds certified
1035 for participation in the Medicaid program or admits or keeps any
1036 Medicaid patients in such adult psychiatric beds, the State
1037 Department of Health shall revoke the certificate of need, if it
1038 is still outstanding, and shall deny or revoke the license of the
1039 hospital at the time that the department determines, after a
1040 hearing complying with due process, that the hospital has failed
1041 to comply with any of the conditions upon which the certificate of
1042 need was issued, as provided in this subparagraph and in the
1043 written agreement by the recipient of the certificate of need.

1044 (b) From and after July 1, 1990, no hospital,
1045 psychiatric hospital or chemical dependency hospital shall be
1046 authorized to add any child/adolescent psychiatric or
1047 child/adolescent chemical dependency beds or convert any beds of
1048 another category to child/adolescent psychiatric or
1049 child/adolescent chemical dependency beds without a certificate of
1050 need under the authority of subsection (1)(c) of this section.

1051 (6) The department may issue a certificate of need to a
1052 county hospital in Winston County for the conversion of fifteen
1053 (15) acute care beds to geriatric psychiatric care beds.

1054 (7) The State Department of Health shall issue a certificate
1055 of need to a Mississippi corporation qualified to manage a
1056 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1057 Harrison County, not to exceed eighty (80) beds, including any
1058 necessary renovation or construction required for licensure and
1059 certification, provided that the recipient of the certificate of
1060 need agrees in writing that the long-term care hospital will not
1061 at any time participate in the Medicaid program (Section 43-13-101
1062 et seq.) or admit or keep any patients in the long-term care
1063 hospital who are participating in the Medicaid program. This
1064 written agreement by the recipient of the certificate of need
1065 shall be fully binding on any subsequent owner of the long-term
1066 care hospital, if the ownership of the facility is transferred at
1067 any time after the issuance of the certificate of need. Agreement
1068 that the long-term care hospital will not participate in the
1069 Medicaid program shall be a condition of the issuance of a
1070 certificate of need to any person under this subsection (7), and
1071 if such long-term care hospital at any time after the issuance of
1072 the certificate of need, regardless of the ownership of the
1073 facility, participates in the Medicaid program or admits or keeps
1074 any patients in the facility who are participating in the Medicaid
1075 program, the State Department of Health shall revoke the
1076 certificate of need, if it is still outstanding, and shall deny or
1077 revoke the license of the long-term care hospital, at the time
1078 that the department determines, after a hearing complying with due
1079 process, that the facility has failed to comply with any of the
1080 conditions upon which the certificate of need was issued, as
1081 provided in this paragraph and in the written agreement by the
1082 recipient of the certificate of need. For purposes of this
1083 paragraph, the provision of Section 41-7-193(1) requiring
1084 substantial compliance with the projection of need as reported in
1085 the current State Health Plan is hereby waived.

1086 (8) The State Department of Health may issue a certificate
1087 of need to any hospital in the state to utilize a portion of its

1088 beds for the "swing-bed" concept. Any such hospital must be in
1089 conformance with the federal regulations regarding such swing-bed
1090 concept at the time it submits its application for a certificate
1091 of need to the State Department of Health, except that such
1092 hospital may have more licensed beds or a higher average daily
1093 census (ADC) than the maximum number specified in federal
1094 regulations for participation in the swing-bed program. Any
1095 hospital meeting all federal requirements for participation in the
1096 swing-bed program which receives such certificate of need shall
1097 render services provided under the swing-bed concept to any
1098 patient eligible for Medicare (Title XVIII of the Social Security
1099 Act) who is certified by a physician to be in need of such
1100 services, and no such hospital shall permit any patient who is
1101 eligible for both Medicaid and Medicare or eligible only for
1102 Medicaid to stay in the swing beds of the hospital for more than
1103 thirty (30) days per admission unless the hospital receives prior
1104 approval for such patient from the Division of Medicaid, Office of
1105 the Governor. Any hospital having more licensed beds or a higher
1106 average daily census (ADC) than the maximum number specified in
1107 federal regulations for participation in the swing-bed program
1108 which receives such certificate of need shall develop a procedure
1109 to insure that before a patient is allowed to stay in the swing
1110 beds of the hospital, there are no vacant nursing home beds
1111 available for that patient located within a fifty-mile radius of
1112 the hospital. When any such hospital has a patient staying in the
1113 swing beds of the hospital and the hospital receives notice from a
1114 nursing home located within such radius that there is a vacant bed
1115 available for that patient, the hospital shall transfer the
1116 patient to the nursing home within a reasonable time after receipt
1117 of the notice. Any hospital which is subject to the requirements
1118 of the two (2) preceding sentences of this paragraph may be
1119 suspended from participation in the swing-bed program for a
1120 reasonable period of time by the State Department of Health if the
1121 department, after a hearing complying with due process, determines

1122 that the hospital has failed to comply with any of those
1123 requirements.

1124 (9) The Department of Health shall not grant approval for or
1125 issue a certificate of need to any person proposing the new
1126 construction of, addition to or expansion of a health care
1127 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1128 (10) The Department of Health shall not grant approval for
1129 or issue a certificate of need to any person proposing the
1130 establishment of, or expansion of the currently approved territory
1131 of, or the contracting to establish a home office, subunit or
1132 branch office within the space operated as a health care facility
1133 as defined in Section 41-7-173(h)(i) through (viii) by a health
1134 care facility as defined in subparagraph (ix) of Section
1135 41-7-173(h).

1136 (11) Health care facilities owned and/or operated by the
1137 state or its agencies are exempt from the restraints in this
1138 section against issuance of a certificate of need if such addition
1139 or expansion consists of repairing or renovation necessary to
1140 comply with the state licensure law. This exception shall not
1141 apply to the new construction of any building by such state
1142 facility. This exception shall not apply to any health care
1143 facilities owned and/or operated by counties, municipalities,
1144 districts, unincorporated areas, other defined persons, or any
1145 combination thereof.

1146 (12) The new construction, renovation or expansion of or
1147 addition to any health care facility defined in subparagraph (ii)
1148 (psychiatric hospital), subparagraph (iv) (skilled nursing
1149 facility), subparagraph (vi) (intermediate care facility),
1150 subparagraph (viii) (intermediate care facility for the mentally
1151 retarded) and subparagraph (x) (psychiatric residential treatment
1152 facility) of Section 41-7-173(h) which is owned by the State of
1153 Mississippi and under the direction and control of the State
1154 Department of Mental Health, and the addition of new beds or the
1155 conversion of beds from one category to another in any such

1156 defined health care facility which is owned by the State of
1157 Mississippi and under the direction and control of the State
1158 Department of Mental Health, shall not require the issuance of a
1159 certificate of need under Section 41-7-171 et seq.,
1160 notwithstanding any provision in Section 41-7-171 et seq. to the
1161 contrary.

1162 (13) The new construction, renovation or expansion of or
1163 addition to any veterans homes or domiciliaries for eligible
1164 veterans of the State of Mississippi as authorized under Section
1165 35-1-19 shall not require the issuance of a certificate of need,
1166 notwithstanding any provision in Section 41-7-171 et seq. to the
1167 contrary.

1168 (14) The new construction of a nursing facility or nursing
1169 facility beds or the conversion of other beds to nursing facility
1170 beds shall not require the issuance of a certificate of need,
1171 notwithstanding any provision in Section 41-7-171 et seq. to the
1172 contrary, if the conditions of this subsection are met.

1173 (a) Before any construction or conversion may be
1174 undertaken without a certificate of need, the owner of the nursing
1175 facility, in the case of an existing facility, or the applicant to
1176 construct a nursing facility, in the case of new construction,
1177 first must file a written notice of intent and sign a written
1178 agreement with the State Department of Health that the entire
1179 nursing facility will not at any time participate in or have any
1180 beds certified for participation in the Medicaid program (Section
1181 43-13-101 et seq.), will not admit or keep any patients in the
1182 nursing facility who are participating in the Medicaid program,
1183 and will not submit any claim for Medicaid reimbursement for any
1184 patient in the facility. This written agreement by the owner or
1185 applicant shall be a condition of exercising the authority under
1186 this subsection without a certificate of need, and the agreement
1187 shall be fully binding on any subsequent owner of the nursing
1188 facility if the ownership of the facility is transferred at any
1189 time after the agreement is signed. After the written agreement

1190 is signed, the Division of Medicaid and the State Department of
1191 Health shall not certify any beds in the nursing facility for
1192 participation in the Medicaid program. If the nursing facility
1193 violates the terms of the written agreement by participating in
1194 the Medicaid program, having any beds certified for participation
1195 in the Medicaid program, admitting or keeping any patient in the
1196 facility who is participating in the Medicaid program, or
1197 submitting any claim for Medicaid reimbursement for any patient in
1198 the facility, the State Department of Health shall revoke the
1199 license of the nursing facility at the time that the department
1200 determines, after a hearing complying with due process, that the
1201 facility has violated the terms of the written agreement.

1202 (b) For the purposes of this subsection, participation
1203 in the Medicaid program by a nursing facility includes Medicaid
1204 reimbursement of coinsurance and deductibles for recipients who
1205 are qualified Medicare beneficiaries and/or those who are dually
1206 eligible. Any nursing facility exercising the authority under
1207 this subsection may not bill or submit a claim to the Division of
1208 Medicaid for services to qualified Medicare beneficiaries and/or
1209 those who are dually eligible.

1210 (c) The new construction of a nursing facility or
1211 nursing facility beds or the conversion of other beds to nursing
1212 facility beds described in this section must be either a part of a
1213 completely new continuing care retirement community, as described
1214 in the latest edition of the Mississippi State Health Plan, or an
1215 addition to existing personal care and independent living
1216 components, and so that the completed project will be a continuing
1217 care retirement community, containing (i) independent living
1218 accommodations, (ii) personal care beds, and (iii) the nursing
1219 home facility beds. The three (3) components must be located on a
1220 single site and be operated as one (1) inseparable facility. The
1221 nursing facility component must contain a minimum of thirty (30)
1222 beds. Any nursing facility beds authorized by this section will
1223 not be counted against the bed need set forth in the State Health

1224 Plan, as identified in Section 41-7-171, et seq.

1225 This subsection (14) shall stand repealed from and after July
1226 1, 2001.

1227 SECTION 2. This act shall take effect and be in force from
1228 and after its passage.