

By: Senator(s) Bean

To: Public Health and  
Welfare;  
Appropriations

SENATE BILL NO. 2104

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR  
3 A MUNICIPALLY-OWNED NURSING FACILITY IN THE TOWN OF BEAUMONT IN  
4 PERRY COUNTY; FOR RELATED PURPOSES.

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

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

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

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

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

15 (c) A change over a period of two (2) years' time, as  
16 established by the State Department of Health, in existing bed  
17 complement through the addition of more than ten (10) beds or more  
18 than ten percent (10%) of the total bed capacity of a designated  
19 licensed category or subcategory of any health care facility,  
20 whichever is less, from one physical facility or site to another;  
21 the conversion over a period of two (2) years' time, as  
22 established by the State Department of Health, of existing bed  
23 complement of more than ten (10) beds or more than ten percent  
24 (10%) of the total bed capacity of a designated licensed category  
25 or subcategory of any such health care facility, whichever is  
26 less; or the alteration, modernizing or refurbishing of any unit  
27 or department wherein such beds may be located; provided, however,  
28 that from and after July 1, 1994, no health care facility shall be

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

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

38 (i) Open heart surgery services;

39 (ii) Cardiac catheterization services;

40 (iii) Comprehensive inpatient rehabilitation  
41 services;

42 (iv) Licensed psychiatric services;

43 (v) Licensed chemical dependency services;

44 (vi) Radiation therapy services;

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

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

49 (ix) Home health services;

50 (x) Swing-bed services;

51 (xi) Ambulatory surgical services;

52 (xii) Magnetic resonance imaging services;

53 (xiii) Extracorporeal shock wave lithotripsy  
54 services;

55 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

101 (ix) of Section 41-7-173(h).

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

109 (a) The total number of nursing home beds as defined in  
110 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be  
111 authorized by such certificates of need issued during the period  
112 beginning on July 1, 1989, and ending on June 30, 2000, shall not  
113 exceed one thousand five hundred thirty (1,530) beds. The number  
114 of nursing home beds authorized under paragraphs (z), (cc), (dd),  
115 (ee) and (ff) of this subsection (2) shall not be counted in the  
116 limit on the total number of beds provided for in this paragraph  
117 (a).

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

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

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

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

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

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

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

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

202           (i) The department may issue a certificate of need to

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

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

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

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

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

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

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



271 need issued under this paragraph shall not exceed twenty-five (25)  
272 beds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

504 (x) The department may issue a certificate of need for  
505 the new construction of a skilled nursing facility in Leake  
506 County, provided that the recipient of the certificate of need  
507 agrees in writing that the skilled nursing facility will not at  
508 any time participate in the Medicaid program (Section 43-13-101 et

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

803 (qq) The department may issue a certificate of need for  
804 the construction of a municipally-owned nursing facility within  
805 the Town of Beaumont in Perry County not to exceed sixty (60)  
806 beds. The provision of Section 41-7-193(1) regarding substantial  
807 compliance of the projection of need as reported in the current  
808 State Health Plan is waived for the purposes of this paragraph.

809 (3) If the holder of the certificate of need that was issued  
810 before January 1, 1990, for the construction of a nursing home in  
811 Claiborne County has not substantially undertaken commencement of  
812 construction by completing site works and pouring foundations and  
813 the floor slab of a nursing home in Claiborne County before May 1,  
814 1990, as determined by the department, then the department shall



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

822 (4) The State Department of Health may grant approval for  
823 and issue certificates of need to any person proposing the new  
824 construction of, addition to, conversion of beds of or expansion  
825 of any health care facility defined in subparagraph (x)  
826 (psychiatric residential treatment facility) of Section  
827 41-7-173(h). The total number of beds which may be authorized by  
828 such certificates of need shall not exceed two hundred  
829 seventy-four (274) beds for the entire state.

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

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

849 any patients other than those who are participating only in the  
850 Medicaid program of another state, and that no claim will be  
851 submitted to the Division of Medicaid for Medicaid reimbursement  
852 for more than thirty (30) patients in the psychiatric residential  
853 treatment facility in any day or for any patient in the  
854 psychiatric residential treatment facility who is in a bed that is  
855 not Medicaid-certified. This written agreement by the recipient  
856 of the certificate of need shall be a condition of the issuance of  
857 the certificate of need under this paragraph, and the agreement  
858 shall be fully binding on any subsequent owner of the psychiatric  
859 residential treatment facility if the ownership of the facility is  
860 transferred at any time after the issuance of the certificate of  
861 need. After this written agreement is executed, the Division of  
862 Medicaid and the State Department of Health shall not certify more  
863 than thirty (30) of the beds in the psychiatric residential  
864 treatment facility for participation in the Medicaid program for  
865 the use of any patients other than those who are participating  
866 only in the Medicaid program of another state. If the psychiatric  
867 residential treatment facility violates the terms of the written  
868 agreement by admitting or keeping in the facility on a regular or  
869 continuing basis more than thirty (30) patients who are  
870 participating in the Mississippi Medicaid program, the State  
871 Department of Health shall revoke the license of the facility, at  
872 the time that the department determines, after a hearing complying  
873 with due process, that the facility has violated the condition  
874 upon which the certificate of need was issued, as provided in this  
875 paragraph and in the written agreement.

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

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

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

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

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

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

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

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

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

985 authority of this paragraph shall not exceed twenty (20) beds.  
986 There shall be no prohibition or restrictions on participation in  
987 the Medicaid program (Section 43-13-101 et seq.) for the hospital  
988 receiving the certificate of need authorized under this  
989 subparagraph (a)(ii) or for the beds converted pursuant to the  
990 authority of that certificate of need.

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

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

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

1019                   (v) The department may issue a certificate of need  
1020 to any county hospital located in Leflore County for the  
1021 construction or expansion of adult psychiatric beds or the  
1022 conversion of other beds to adult psychiatric beds, not to exceed  
1023 twenty (20) beds, provided that the recipient of the certificate  
1024 of need agrees in writing that the adult psychiatric beds will not  
1025 at any time be certified for participation in the Medicaid program  
1026 and that the hospital will not admit or keep any patients who are  
1027 participating in the Medicaid program in any of such adult  
1028 psychiatric beds. This written agreement by the recipient of the  
1029 certificate of need shall be fully binding on any subsequent owner  
1030 of the hospital if the ownership of the hospital is transferred at  
1031 any time after the issuance of the certificate of need. Agreement  
1032 that the adult psychiatric beds will not be certified for  
1033 participation in the Medicaid program shall be a condition of the  
1034 issuance of a certificate of need to any person under this  
1035 subparagraph (a)(v), and if such hospital at any time after the  
1036 issuance of the certificate of need, regardless of the ownership  
1037 of the hospital, has any of such adult psychiatric beds certified  
1038 for participation in the Medicaid program or admits or keeps any  
1039 Medicaid patients in such adult psychiatric beds, the State  
1040 Department of Health shall revoke the certificate of need, if it  
1041 is still outstanding, and shall deny or revoke the license of the  
1042 hospital at the time that the department determines, after a  
1043 hearing complying with due process, that the hospital has failed  
1044 to comply with any of the conditions upon which the certificate of  
1045 need was issued, as provided in this subparagraph and in the  
1046 written agreement by the recipient of the certificate of need.

1047                   (b) From and after July 1, 1990, no hospital,  
1048 psychiatric hospital or chemical dependency hospital shall be  
1049 authorized to add any child/adolescent psychiatric or  
1050 child/adolescent chemical dependency beds or convert any beds of  
1051 another category to child/adolescent psychiatric or  
1052 child/adolescent chemical dependency beds without a certificate of

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

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

1057 (7) The State Department of Health shall issue a certificate  
1058 of need to a Mississippi corporation qualified to manage a  
1059 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1060 Harrison County, not to exceed eighty (80) beds, including any  
1061 necessary renovation or construction required for licensure and  
1062 certification, provided that the recipient of the certificate of  
1063 need agrees in writing that the long-term care hospital will not  
1064 at any time participate in the Medicaid program (Section 43-13-101  
1065 et seq.) or admit or keep any patients in the long-term care  
1066 hospital who are participating in the Medicaid program. This  
1067 written agreement by the recipient of the certificate of need  
1068 shall be fully binding on any subsequent owner of the long-term  
1069 care hospital, if the ownership of the facility is transferred at  
1070 any time after the issuance of the certificate of need. Agreement  
1071 that the long-term care hospital will not participate in the  
1072 Medicaid program shall be a condition of the issuance of a  
1073 certificate of need to any person under this subsection (7), and  
1074 if such long-term care hospital at any time after the issuance of  
1075 the certificate of need, regardless of the ownership of the  
1076 facility, participates in the Medicaid program or admits or keeps  
1077 any patients in the facility who are participating in the Medicaid  
1078 program, the State Department of Health shall revoke the  
1079 certificate of need, if it is still outstanding, and shall deny or  
1080 revoke the license of the long-term care hospital, at the time  
1081 that the department determines, after a hearing complying with due  
1082 process, that the facility has failed to comply with any of the  
1083 conditions upon which the certificate of need was issued, as  
1084 provided in this paragraph and in the written agreement by the  
1085 recipient of the certificate of need. For purposes of this  
1086 paragraph, the provision of Section 41-7-193(1) requiring



1087 substantial compliance with the projection of need as reported in  
1088 the current State Health Plan is hereby waived.

1089 (8) The State Department of Health may issue a certificate  
1090 of need to any hospital in the state to utilize a portion of its  
1091 beds for the "swing-bed" concept. Any such hospital must be in  
1092 conformance with the federal regulations regarding such swing-bed  
1093 concept at the time it submits its application for a certificate  
1094 of need to the State Department of Health, except that such  
1095 hospital may have more licensed beds or a higher average daily  
1096 census (ADC) than the maximum number specified in federal  
1097 regulations for participation in the swing-bed program. Any  
1098 hospital meeting all federal requirements for participation in the  
1099 swing-bed program which receives such certificate of need shall  
1100 render services provided under the swing-bed concept to any  
1101 patient eligible for Medicare (Title XVIII of the Social Security  
1102 Act) who is certified by a physician to be in need of such  
1103 services, and no such hospital shall permit any patient who is  
1104 eligible for both Medicaid and Medicare or eligible only for  
1105 Medicaid to stay in the swing beds of the hospital for more than  
1106 thirty (30) days per admission unless the hospital receives prior  
1107 approval for such patient from the Division of Medicaid, Office of  
1108 the Governor. Any hospital having more licensed beds or a higher  
1109 average daily census (ADC) than the maximum number specified in  
1110 federal regulations for participation in the swing-bed program  
1111 which receives such certificate of need shall develop a procedure  
1112 to insure that before a patient is allowed to stay in the swing  
1113 beds of the hospital, there are no vacant nursing home beds  
1114 available for that patient located within a fifty-mile radius of  
1115 the hospital. When any such hospital has a patient staying in the  
1116 swing beds of the hospital and the hospital receives notice from a  
1117 nursing home located within such radius that there is a vacant bed  
1118 available for that patient, the hospital shall transfer the  
1119 patient to the nursing home within a reasonable time after receipt  
1120 of the notice. Any hospital which is subject to the requirements

1121 of the two (2) preceding sentences of this paragraph may be  
1122 suspended from participation in the swing-bed program for a  
1123 reasonable period of time by the State Department of Health if the  
1124 department, after a hearing complying with due process, determines  
1125 that the hospital has failed to comply with any of those  
1126 requirements.

1127 (9) The Department of Health shall not grant approval for or  
1128 issue a certificate of need to any person proposing the new  
1129 construction of, addition to or expansion of a health care  
1130 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1131 (10) The Department of Health shall not grant approval for  
1132 or issue a certificate of need to any person proposing the  
1133 establishment of, or expansion of the currently approved territory  
1134 of, or the contracting to establish a home office, subunit or  
1135 branch office within the space operated as a health care facility  
1136 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1137 care facility as defined in subparagraph (ix) of Section  
1138 41-7-173(h).

1139 (11) Health care facilities owned and/or operated by the  
1140 state or its agencies are exempt from the restraints in this  
1141 section against issuance of a certificate of need if such addition  
1142 or expansion consists of repairing or renovation necessary to  
1143 comply with the state licensure law. This exception shall not  
1144 apply to the new construction of any building by such state  
1145 facility. This exception shall not apply to any health care  
1146 facilities owned and/or operated by counties, municipalities,  
1147 districts, unincorporated areas, other defined persons, or any  
1148 combination thereof.

1149 (12) The new construction, renovation or expansion of or  
1150 addition to any health care facility defined in subparagraph (ii)  
1151 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1152 facility), subparagraph (vi) (intermediate care facility),  
1153 subparagraph (viii) (intermediate care facility for the mentally  
1154 retarded) and subparagraph (x) (psychiatric residential treatment

1155 facility) of Section 41-7-173(h) which is owned by the State of  
1156 Mississippi and under the direction and control of the State  
1157 Department of Mental Health, and the addition of new beds or the  
1158 conversion of beds from one category to another in any such  
1159 defined health care facility which is owned by the State of  
1160 Mississippi and under the direction and control of the State  
1161 Department of Mental Health, shall not require the issuance of a  
1162 certificate of need under Section 41-7-171 et seq.,  
1163 notwithstanding any provision in Section 41-7-171 et seq. to the  
1164 contrary.

1165 (13) The new construction, renovation or expansion of or  
1166 addition to any veterans homes or domiciliaries for eligible  
1167 veterans of the State of Mississippi as authorized under Section  
1168 35-1-19 shall not require the issuance of a certificate of need,  
1169 notwithstanding any provision in Section 41-7-171 et seq. to the  
1170 contrary.

1171 (14) The new construction of a nursing facility or nursing  
1172 facility beds or the conversion of other beds to nursing facility  
1173 beds shall not require the issuance of a certificate of need,  
1174 notwithstanding any provision in Section 41-7-171 et seq. to the  
1175 contrary, if the conditions of this subsection are met.

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

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

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

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

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

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

1230 SECTION 2. This act shall take effect and be in force from  
1231 and after its passage.