

By: Senator(s) Ferris

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2192

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL AMEND THE
3 CONDITIONS UPON WHICH A CERTIFICATE OF NEED WAS ISSUED FOR
4 CONSTRUCTION OF A REPLACEMENT NURSING FACILITY IN THE CITY OF
5 VICKSBURG TO PROVIDE THAT 15 OF THE BEDS AT THE NURSING FACILITY
6 MAY PARTICIPATE IN THE MEDICAID PROGRAM UNDER CERTAIN
7 CIRCUMSTANCES; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
8 LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

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

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

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

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

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

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

42 (i) Open heart surgery services;

43 (ii) Cardiac catheterization services;

44 (iii) Comprehensive inpatient rehabilitation
45 services;

46 (iv) Licensed psychiatric services;

47 (v) Licensed chemical dependency services;

48 (vi) Radiation therapy services;

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

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

53 (ix) Home health services;

54 (x) Swing-bed services;

55 (xi) Ambulatory surgical services;

56 (xii) Magnetic resonance imaging services;

57 (xiii) Extracorporeal shock wave lithotripsy
58 services;

59 (xiv) Long-term care hospital services;

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

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

69 political subdivision of either, whose order is also approved by
70 the State Department of Health;

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

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

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

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

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

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

103 operated as a health care facility through a formal arrangement
104 with an existing health care facility as defined in subparagraph
105 (ix) of Section 41-7-173(h).

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

113 (a) The total number of nursing home beds as defined in
114 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
115 authorized by such certificates of need issued during the period
116 beginning on July 1, 1989, and ending on June 30, 1999, shall not
117 exceed one thousand four hundred seventy (1,470) beds. The number
118 of nursing home beds authorized under paragraphs (z), (cc), (dd),
119 (ee) and (ff) of this subsection (2) shall not be counted in the
120 limit on the total number of beds provided for in this paragraph
121 (a).

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

137 required, the provision of Section 41-7-193(1) regarding
138 substantial compliance with the projection of need as reported in
139 the 1989 State Health Plan is waived. The total number of nursing
140 home care beds that may be authorized by certificates of need
141 issued under this paragraph shall not exceed one hundred
142 fifty-four (154) beds.

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

171 health care facility has violated the terms of the written
172 agreement as provided in this paragraph.

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

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

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

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

201 (h) Provided all criteria specified in the 1989 State
202 Health Plan are met and the proposed nursing home is within no
203 more than a fifteen-minute transportation time to an existing
204 hospital, the department may issue a certificate of need for the

205 construction of one (1) sixty-bed nursing home in Benton County.

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

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

216 (k) The department may issue certificates of need in
217 Harrison County to provide skilled nursing home care for
218 Alzheimer's Disease patients and other patients, not to exceed one
219 hundred fifty (150) beds, provided that (i) the owner of the
220 health care facility issued a certificate of need for sixty (60)
221 beds agrees in writing that no more than thirty (30) of the beds
222 in the health care facility will be certified for participation in
223 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
224 of one (1) of the health care facilities issued a certificate of
225 need for forty-five (45) beds agrees in writing that no more than
226 twenty-three (23) of the beds in the health care facility will be
227 certified for participation in the Medicaid program, and (iii) the
228 owner of the other health care facility issued a certificate of
229 need for forty-five (45) beds agrees in writing that no more than
230 twenty-two (22) of the beds in the health care facility will be
231 certified for participation in the Medicaid program, and that no
232 claim will be submitted for Medicaid reimbursement for a number of
233 patients in the health care facility in any day that is greater
234 than the number of beds certified for participation in the
235 Medicaid program or for any patient in the health care facility
236 who is in a bed that is not Medicaid-certified. These written
237 agreements by the owners of the health care facilities on July 1,
238 1995, shall be fully binding on any subsequent owner of any of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

470 (w) The State Department of Health may issue a
471 certificate of need for the construction or expansion of nursing
472 facility beds or the conversion of other beds to nursing facility
473 beds in either Hancock, Harrison or Jackson Counties, not to
474 exceed sixty (60) beds, provided that the recipient of the
475 certificate of need agrees in writing that no more than thirty
476 (30) of the beds at the nursing facility will be certified for

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

508 (x) The department may issue a certificate of need for
509 the new construction of a skilled nursing facility in Leake
510 County, provided that the recipient of the certificate of need

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

545 facility at any time after the expiration of the eighteen-month
546 period.

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

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

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

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

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

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

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

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

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

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

715 (6) months after final adjudication on the issuance of the
716 certificate of need.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1003 (iv) The department shall issue a certificate of
1004 need to the Region 7 Mental Health/Retardation Commission for the
1005 construction or expansion of child/adolescent psychiatric beds or
1006 the conversion of other beds to child/adolescent psychiatric beds
1007 in any of the counties served by the commission. For purposes of
1008 this subparagraph, the provisions of Section 41-7-193(1) requiring
1009 substantial compliance with the projection of need as reported in
1010 the current State Health Plan is waived. The total number of beds
1011 that may be authorized under the authority of this subparagraph
1012 shall not exceed twenty (20) beds. There shall be no prohibition
1013 or restrictions on participation in the Medicaid program (Section
1014 43-13-101 et seq.) for the person receiving the certificate of
1015 need authorized under this subparagraph (a)(iv) or for the beds
1016 converted pursuant to the authority of that certificate of need.

1017 (v) The department may issue a certificate of need
1018 to any county hospital located in Leflore County for the
1019 construction or expansion of adult psychiatric beds or the
1020 conversion of other beds to adult psychiatric beds, not to exceed

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

1045 (b) From and after July 1, 1990, no hospital,
1046 psychiatric hospital or chemical dependency hospital shall be
1047 authorized to add any child/adolescent psychiatric or
1048 child/adolescent chemical dependency beds or convert any beds of
1049 another category to child/adolescent psychiatric or
1050 child/adolescent chemical dependency beds without a certificate of
1051 need under the authority of subsection (1)(c) of this section.

1052 (6) The department may issue a certificate of need to a
1053 county hospital in Winston County for the conversion of fifteen
1054 (15) acute care beds to geriatric psychiatric care beds.

1055 (7) The State Department of Health shall issue a certificate
1056 of need to a Mississippi corporation qualified to manage a
1057 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1058 Harrison County, not to exceed eighty (80) beds, including any
1059 necessary renovation or construction required for licensure and
1060 certification, provided that the recipient of the certificate of
1061 need agrees in writing that the long-term care hospital will not
1062 at any time participate in the Medicaid program (Section 43-13-101
1063 et seq.) or admit or keep any patients in the long-term care
1064 hospital who are participating in the Medicaid program. This
1065 written agreement by the recipient of the certificate of need
1066 shall be fully binding on any subsequent owner of the long-term
1067 care hospital, if the ownership of the facility is transferred at
1068 any time after the issuance of the certificate of need. Agreement
1069 that the long-term care hospital will not participate in the
1070 Medicaid program shall be a condition of the issuance of a
1071 certificate of need to any person under this subsection (7), and
1072 if such long-term care hospital at any time after the issuance of
1073 the certificate of need, regardless of the ownership of the
1074 facility, participates in the Medicaid program or admits or keeps
1075 any patients in the facility who are participating in the Medicaid
1076 program, the State Department of Health shall revoke the
1077 certificate of need, if it is still outstanding, and shall deny or
1078 revoke the license of the long-term care hospital, at the time
1079 that the department determines, after a hearing complying with due
1080 process, that the facility has failed to comply with any of the
1081 conditions upon which the certificate of need was issued, as
1082 provided in this paragraph and in the written agreement by the
1083 recipient of the certificate of need. For purposes of this
1084 paragraph, the provision of Section 41-7-193(1) requiring
1085 substantial compliance with the projection of need as reported in
1086 the current State Health Plan is hereby waived.

1087 (8) The State Department of Health may issue a certificate
1088 of need to any hospital in the state to utilize a portion of its

1089 beds for the "swing-bed" concept. Any such hospital must be in
1090 conformance with the federal regulations regarding such swing-bed
1091 concept at the time it submits its application for a certificate
1092 of need to the State Department of Health, except that such
1093 hospital may have more licensed beds or a higher average daily
1094 census (ADC) than the maximum number specified in federal
1095 regulations for participation in the swing-bed program. Any
1096 hospital meeting all federal requirements for participation in the
1097 swing-bed program which receives such certificate of need shall
1098 render services provided under the swing-bed concept to any
1099 patient eligible for Medicare (Title XVIII of the Social Security
1100 Act) who is certified by a physician to be in need of such
1101 services, and no such hospital shall permit any patient who is
1102 eligible for both Medicaid and Medicare or eligible only for
1103 Medicaid to stay in the swing beds of the hospital for more than
1104 thirty (30) days per admission unless the hospital receives prior
1105 approval for such patient from the Division of Medicaid, Office of
1106 the Governor. Any hospital having more licensed beds or a higher
1107 average daily census (ADC) than the maximum number specified in
1108 federal regulations for participation in the swing-bed program
1109 which receives such certificate of need shall develop a procedure
1110 to insure that before a patient is allowed to stay in the swing
1111 beds of the hospital, there are no vacant nursing home beds
1112 available for that patient located within a fifty-mile radius of
1113 the hospital. When any such hospital has a patient staying in the
1114 swing beds of the hospital and the hospital receives notice from a
1115 nursing home located within such radius that there is a vacant bed
1116 available for that patient, the hospital shall transfer the
1117 patient to the nursing home within a reasonable time after receipt
1118 of the notice. Any hospital which is subject to the requirements
1119 of the two (2) preceding sentences of this paragraph may be
1120 suspended from participation in the swing-bed program for a
1121 reasonable period of time by the State Department of Health if the
1122 department, after a hearing complying with due process, determines

1123 that the hospital has failed to comply with any of those
1124 requirements.

1125 (9) The Department of Health shall not grant approval for or
1126 issue a certificate of need to any person proposing the new
1127 construction of, addition to or expansion of a health care
1128 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1129 (10) The Department of Health shall not grant approval for
1130 or issue a certificate of need to any person proposing the
1131 establishment of, or expansion of the currently approved territory
1132 of, or the contracting to establish a home office, subunit or
1133 branch office within the space operated as a health care facility
1134 as defined in Section 41-7-173(h)(i) through (viii) by a health
1135 care facility as defined in subparagraph (ix) of Section
1136 41-7-173(h).

1137 (11) Health care facilities owned and/or operated by the
1138 state or its agencies are exempt from the restraints in this
1139 section against issuance of a certificate of need if such addition
1140 or expansion consists of repairing or renovation necessary to
1141 comply with the state licensure law. This exception shall not
1142 apply to the new construction of any building by such state
1143 facility. This exception shall not apply to any health care
1144 facilities owned and/or operated by counties, municipalities,
1145 districts, unincorporated areas, other defined persons, or any
1146 combination thereof.

1147 (12) The new construction, renovation or expansion of or
1148 addition to any health care facility defined in subparagraph (ii)
1149 (psychiatric hospital), subparagraph (iv) (skilled nursing
1150 facility), subparagraph (vi) (intermediate care facility),
1151 subparagraph (viii) (intermediate care facility for the mentally
1152 retarded) and subparagraph (x) (psychiatric residential treatment
1153 facility) of Section 41-7-173(h) which is owned by the State of
1154 Mississippi and under the direction and control of the State
1155 Department of Mental Health, and the addition of new beds or the
1156 conversion of beds from one category to another in any such

1157 defined health care facility which is owned by the State of
1158 Mississippi and under the direction and control of the State
1159 Department of Mental Health, shall not require the issuance of a
1160 certificate of need under Section 41-7-171 et seq.,
1161 notwithstanding any provision in Section 41-7-171 et seq. to the
1162 contrary.

1163 (13) The new construction, renovation or expansion of or
1164 addition to any veterans homes or domiciliaries for eligible
1165 veterans of the State of Mississippi as authorized under Section
1166 35-1-19 shall not require the issuance of a certificate of need,
1167 notwithstanding any provision in Section 41-7-171 et seq. to the
1168 contrary.

1169 (14) The new construction of a nursing facility or nursing
1170 facility beds or the conversion of other beds to nursing facility
1171 beds shall not require the issuance of a certificate of need,
1172 notwithstanding any provision in Section 41-7-171 et seq. to the
1173 contrary, if the conditions of this subsection are met.

1174 (a) Before any construction or conversion may be
1175 undertaken without a certificate of need, the owner of the nursing
1176 facility, in the case of an existing facility, or the applicant to
1177 construct a nursing facility, in the case of new construction,
1178 first must file a written notice of intent and sign a written
1179 agreement with the State Department of Health that the entire
1180 nursing facility will not at any time participate in or have any
1181 beds certified for participation in the Medicaid program (Section
1182 43-13-101 et seq.), will not admit or keep any patients in the
1183 nursing facility who are participating in the Medicaid program,
1184 and will not submit any claim for Medicaid reimbursement for any
1185 patient in the facility. This written agreement by the owner or
1186 applicant shall be a condition of exercising the authority under
1187 this subsection without a certificate of need, and the agreement
1188 shall be fully binding on any subsequent owner of the nursing
1189 facility if the ownership of the facility is transferred at any
1190 time after the agreement is signed. After the written agreement

1191 is signed, the Division of Medicaid and the State Department of
1192 Health shall not certify any beds in the nursing facility for
1193 participation in the Medicaid program. If the nursing facility
1194 violates the terms of the written agreement by participating in
1195 the Medicaid program, having any beds certified for participation
1196 in the Medicaid program, admitting or keeping any patient in the
1197 facility who is participating in the Medicaid program, or
1198 submitting any claim for Medicaid reimbursement for any patient in
1199 the facility, the State Department of Health shall revoke the
1200 license of the nursing facility at the time that the department
1201 determines, after a hearing complying with due process, that the
1202 facility has violated the terms of the written agreement.

1203 (b) For the purposes of this subsection, participation
1204 in the Medicaid program by a nursing facility includes Medicaid
1205 reimbursement of coinsurance and deductibles for recipients who
1206 are qualified Medicare beneficiaries and/or those who are dually
1207 eligible. Any nursing facility exercising the authority under
1208 this subsection may not bill or submit a claim to the Division of
1209 Medicaid for services to qualified Medicare beneficiaries and/or
1210 those who are dually eligible.

1211 (c) The new construction of a nursing facility or
1212 nursing facility beds or the conversion of other beds to nursing
1213 facility beds described in this section must be either a part of a
1214 completely new continuing care retirement community, as described
1215 in the latest edition of the Mississippi State Health Plan, or an
1216 addition to existing personal care and independent living
1217 components, and so that the completed project will be a continuing
1218 care retirement community, containing (i) independent living
1219 accommodations, (ii) personal care beds, and (iii) the nursing
1220 home facility beds. The three (3) components must be located on a
1221 single site and be operated as one (1) inseparable facility. The
1222 nursing facility component must contain a minimum of thirty (30)
1223 beds. Any nursing facility beds authorized by this section will
1224 not be counted against the bed need set forth in the State Health

1225 Plan, as identified in Section 41-7-171, et seq.

1226 This subsection (14) shall stand repealed from and after July
1227 1, 2001.

1228 (15) The State Department of Health shall amend the
1229 conditions upon which the certificate of need was issued to the
1230 River City Limited Partnership, d/b/a The Sydney House, on
1231 April 18, 1990, for construction of a sixty-bed replacement
1232 nursing facility in the City of Vicksburg, as follows:

1233 The conditions that The Sydney House shall not participate in
1234 the Medicaid program and that nonparticipation in the Medicaid
1235 program shall be a written condition on the license shall be
1236 modified to provide that fifteen (15) of the beds at the nursing
1237 facility may be certified for participation in the Medicaid
1238 program, provided that the owner of the nursing facility on July
1239 1, 1999, agrees in writing that no more than fifteen (15) of the
1240 beds at the nursing facility will be certified for participation
1241 in the Medicaid program, and that no claim will be submitted for
1242 Medicaid reimbursement for more than fifteen (15) patients in the
1243 nursing facility in any day or for any patient in the nursing
1244 facility who is in a bed that is not Medicaid-certified. This
1245 written agreement by the owner of the nursing facility on July 1,
1246 1999, shall be fully binding on any subsequent owner of the
1247 nursing facility if the ownership of the nursing facility is
1248 transferred at any time after July 1, 1999. After this written
1249 agreement is executed, the Division of Medicaid and the State
1250 Department of Health shall not certify more than fifteen (15) of
1251 the beds in the nursing facility for participation in the Medicaid
1252 program. If the nursing facility violates the terms of the
1253 written agreement by admitting or keeping in the nursing facility
1254 on a regular or continuing basis more than fifteen (15) patients
1255 who are participating in the Medicaid program, the State
1256 Department of Health shall revoke the license of the nursing
1257 facility, at the time that the department determines, after a
1258 hearing complying with due process, that the nursing facility has

1259 violated the terms of the written agreement as provided in this
1260 subsection.

1261 SECTION 2. This act shall take effect and be in force from
1262 and after July 1, 1999.