

By: Senator(s) Dearing

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2280

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE
3 OF NEED FOR THE NEW CONSTRUCTION OF A NURSING FACILITY IN AMITE
4 COUNTY, MISSISSIPPI; AND 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 State Department of Health may issue a
804 certificate of need for the new construction of a nursing
805 facility, not exceeding sixty (60) beds, in Amite County, which is
806 the only county with a population of more than ten thousand
807 (10,000), according to the 1990 federal census, that has no
808 nursing beds and no hospital.

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 July 1, 1999.