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To: Public Health and Welfare

## SENATE BILL NO. 2486

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 ESTABLISHMENT AND EQUIPPING OF A COMPREHENSIVE  
4 CANCER CENTER FOR OUTPATIENT CANCER THERAPY SERVICES; AND FOR  
5 RELATED PURPOSES.

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

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

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

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

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

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

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

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

39 (i) Open heart surgery services;

40 (ii) Cardiac catheterization services;

41 (iii) Comprehensive inpatient rehabilitation  
42 services;

43 (iv) Licensed psychiatric services;

44 (v) Licensed chemical dependency services;

45 (vi) Radiation therapy services;

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

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

50 (ix) Home health services;

51 (x) Swing-bed services;

52 (xi) Ambulatory surgical services;

53 (xii) Magnetic resonance imaging services;

54 (xiii) Extracorporeal shock wave lithotripsy  
55 services;

56 (xiv) Long-term care hospital services;

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

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

67 the State Department of Health;

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

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

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

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

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

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

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

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

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

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

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

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

169 agreement as provided in this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



543 period.

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

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

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

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

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

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

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

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

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

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

713 certificate of need.

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

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

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

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

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

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



815 on county-owned property or the conversion of vacant hospital beds  
816 in the county hospital not to exceed sixty (60) beds.

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

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

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

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

871 (c) Of the total number of beds authorized under this  
872 subsection, the department shall issue a certificate of need to a  
873 hospital currently operating Medicaid-certified acute psychiatric  
874 beds for adolescents in DeSoto County, for the establishment of a  
875 forty-bed psychiatric residential treatment facility in DeSoto  
876 County, provided that the hospital agrees in writing (i) that the  
877 hospital shall give priority for the use of those forty (40) beds  
878 to Mississippi residents who are presently being treated in  
879 out-of-state facilities, and (ii) that no more than fifteen (15)  
880 of the beds at the psychiatric residential treatment facility will  
881 be certified for participation in the Medicaid program (Section  
882 43-13-101 et seq.), and that no claim will be submitted for

883 Medicaid reimbursement for more than fifteen (15) patients in the  
884 psychiatric residential treatment facility in any day or for any  
885 patient in the psychiatric residential treatment facility who is  
886 in a bed that is not Medicaid-certified. This written agreement  
887 by the recipient of the certificate of need shall be a condition  
888 of the issuance of the certificate of need under this paragraph,  
889 and the agreement shall be fully binding on any subsequent owner  
890 of the psychiatric residential treatment facility if the ownership  
891 of the facility is transferred at any time after the issuance of  
892 the certificate of need. After this written agreement is  
893 executed, the Division of Medicaid and the State Department of  
894 Health shall not certify more than fifteen (15) of the beds in the  
895 psychiatric residential treatment facility for participation in  
896 the Medicaid program. If the psychiatric residential treatment  
897 facility violates the terms of the written agreement by admitting  
898 or keeping in the facility on a regular or continuing basis more  
899 than fifteen (15) patients who are participating in the Medicaid  
900 program, the State Department of Health shall revoke the license  
901 of the facility, at the time that the department determines, after  
902 a hearing complying with due process, that the facility has  
903 violated the condition upon which the certificate of need was  
904 issued, as provided in this paragraph and in the written  
905 agreement.

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

914 (e) Of the total number of beds authorized under this  
915 subsection (4) the department shall issue a certificate of need to  
916 a privately owned, nonprofit psychiatric residential treatment

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

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

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

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

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

985 authority of that certificate of need.

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

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

1000 (iv) The department shall issue a certificate of  
1001 need to the Region 7 Mental Health/Retardation Commission for the  
1002 construction or expansion of child/adolescent psychiatric beds or  
1003 the conversion of other beds to child/adolescent psychiatric beds  
1004 in any of the counties served by the commission. For purposes of  
1005 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1006 substantial compliance with the projection of need as reported in  
1007 the current State Health Plan is waived. The total number of beds  
1008 that may be authorized under the authority of this subparagraph  
1009 shall not exceed twenty (20) beds. There shall be no prohibition  
1010 or restrictions on participation in the Medicaid program (Section  
1011 43-13-101 et seq.) for the person receiving the certificate of  
1012 need authorized under this subparagraph (a)(iv) or for the beds  
1013 converted pursuant to the authority of that certificate of need.

1014 (v) The department may issue a certificate of need  
1015 to any county hospital located in Leflore County for the  
1016 construction or expansion of adult psychiatric beds or the  
1017 conversion of other beds to adult psychiatric beds, not to exceed  
1018 twenty (20) beds, provided that the recipient of the certificate

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

1042 (b) From and after July 1, 1990, no hospital,  
1043 psychiatric hospital or chemical dependency hospital shall be  
1044 authorized to add any child/adolescent psychiatric or  
1045 child/adolescent chemical dependency beds or convert any beds of  
1046 another category to child/adolescent psychiatric or  
1047 child/adolescent chemical dependency beds without a certificate of  
1048 need under the authority of subsection (1)(c) of this section.

1049 (6) The department may issue a certificate of need to a  
1050 county hospital in Winston County for the conversion of fifteen  
1051 (15) acute care beds to geriatric psychiatric care beds.

1052 (7) The State Department of Health shall issue a certificate

1053 of need to a Mississippi corporation qualified to manage a  
1054 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1055 Harrison County, not to exceed eighty (80) beds, including any  
1056 necessary renovation or construction required for licensure and  
1057 certification, provided that the recipient of the certificate of  
1058 need agrees in writing that the long-term care hospital will not  
1059 at any time participate in the Medicaid program (Section 43-13-101  
1060 et seq.) or admit or keep any patients in the long-term care  
1061 hospital who are participating in the Medicaid program. This  
1062 written agreement by the recipient of the certificate of need  
1063 shall be fully binding on any subsequent owner of the long-term  
1064 care hospital, if the ownership of the facility is transferred at  
1065 any time after the issuance of the certificate of need. Agreement  
1066 that the long-term care hospital will not participate in the  
1067 Medicaid program shall be a condition of the issuance of a  
1068 certificate of need to any person under this subsection (7), and  
1069 if such long-term care hospital at any time after the issuance of  
1070 the certificate of need, regardless of the ownership of the  
1071 facility, participates in the Medicaid program or admits or keeps  
1072 any patients in the facility who are participating in the Medicaid  
1073 program, the State Department of Health shall revoke the  
1074 certificate of need, if it is still outstanding, and shall deny or  
1075 revoke the license of the long-term care hospital, at the time  
1076 that the department determines, after a hearing complying with due  
1077 process, that the facility has failed to comply with any of the  
1078 conditions upon which the certificate of need was issued, as  
1079 provided in this paragraph and in the written agreement by the  
1080 recipient of the certificate of need. For purposes of this  
1081 paragraph, the provision of Section 41-7-193(1) requiring  
1082 substantial compliance with the projection of need as reported in  
1083 the current State Health Plan is hereby waived.

1084 (8) The State Department of Health may issue a certificate  
1085 of need to any hospital in the state to utilize a portion of its  
1086 beds for the "swing-bed" concept. Any such hospital must be in



1087 conformance with the federal regulations regarding such swing-bed  
1088 concept at the time it submits its application for a certificate  
1089 of need to the State Department of Health, except that such  
1090 hospital may have more licensed beds or a higher average daily  
1091 census (ADC) than the maximum number specified in federal  
1092 regulations for participation in the swing-bed program. Any  
1093 hospital meeting all federal requirements for participation in the  
1094 swing-bed program which receives such certificate of need shall  
1095 render services provided under the swing-bed concept to any  
1096 patient eligible for Medicare (Title XVIII of the Social Security  
1097 Act) who is certified by a physician to be in need of such  
1098 services, and no such hospital shall permit any patient who is  
1099 eligible for both Medicaid and Medicare or eligible only for  
1100 Medicaid to stay in the swing beds of the hospital for more than  
1101 thirty (30) days per admission unless the hospital receives prior  
1102 approval for such patient from the Division of Medicaid, Office of  
1103 the Governor. Any hospital having more licensed beds or a higher  
1104 average daily census (ADC) than the maximum number specified in  
1105 federal regulations for participation in the swing-bed program  
1106 which receives such certificate of need shall develop a procedure  
1107 to insure that before a patient is allowed to stay in the swing  
1108 beds of the hospital, there are no vacant nursing home beds  
1109 available for that patient located within a fifty-mile radius of  
1110 the hospital. When any such hospital has a patient staying in the  
1111 swing beds of the hospital and the hospital receives notice from a  
1112 nursing home located within such radius that there is a vacant bed  
1113 available for that patient, the hospital shall transfer the  
1114 patient to the nursing home within a reasonable time after receipt  
1115 of the notice. Any hospital which is subject to the requirements  
1116 of the two (2) preceding sentences of this paragraph may be  
1117 suspended from participation in the swing-bed program for a  
1118 reasonable period of time by the State Department of Health if the  
1119 department, after a hearing complying with due process, determines  
1120 that the hospital has failed to comply with any of those

1121 requirements.

1122 (9) The Department of Health shall not grant approval for or  
1123 issue a certificate of need to any person proposing the new  
1124 construction of, addition to or expansion of a health care  
1125 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1126 (10) The Department of Health shall not grant approval for  
1127 or issue a certificate of need to any person proposing the  
1128 establishment of, or expansion of the currently approved territory  
1129 of, or the contracting to establish a home office, subunit or  
1130 branch office within the space operated as a health care facility  
1131 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1132 care facility as defined in subparagraph (ix) of Section  
1133 41-7-173(h).

1134 (11) Health care facilities owned and/or operated by the  
1135 state or its agencies are exempt from the restraints in this  
1136 section against issuance of a certificate of need if such addition  
1137 or expansion consists of repairing or renovation necessary to  
1138 comply with the state licensure law. This exception shall not  
1139 apply to the new construction of any building by such state  
1140 facility. This exception shall not apply to any health care  
1141 facilities owned and/or operated by counties, municipalities,  
1142 districts, unincorporated areas, other defined persons, or any  
1143 combination thereof.

1144 (12) The new construction, renovation or expansion of or  
1145 addition to any health care facility defined in subparagraph (ii)  
1146 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1147 facility), subparagraph (vi) (intermediate care facility),  
1148 subparagraph (viii) (intermediate care facility for the mentally  
1149 retarded) and subparagraph (x) (psychiatric residential treatment  
1150 facility) of Section 41-7-173(h) which is owned by the State of  
1151 Mississippi and under the direction and control of the State  
1152 Department of Mental Health, and the addition of new beds or the  
1153 conversion of beds from one category to another in any such  
1154 defined health care facility which is owned by the State of

1155 Mississippi and under the direction and control of the State  
1156 Department of Mental Health, shall not require the issuance of a  
1157 certificate of need under Section 41-7-171 et seq.,  
1158 notwithstanding any provision in Section 41-7-171 et seq. to the  
1159 contrary.

1160 (13) The new construction, renovation or expansion of or  
1161 addition to any veterans homes or domiciliaries for eligible  
1162 veterans of the State of Mississippi as authorized under Section  
1163 35-1-19 shall not require the issuance of a certificate of need,  
1164 notwithstanding any provision in Section 41-7-171 et seq. to the  
1165 contrary.

1166 (14) The new construction of a nursing facility or nursing  
1167 facility beds or the conversion of other beds to nursing facility  
1168 beds 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, if the conditions of this subsection are met.

1171 (a) Before any construction or conversion may be  
1172 undertaken without a certificate of need, the owner of the nursing  
1173 facility, in the case of an existing facility, or the applicant to  
1174 construct a nursing facility, in the case of new construction,  
1175 first must file a written notice of intent and sign a written  
1176 agreement with the State Department of Health that the entire  
1177 nursing facility will not at any time participate in or have any  
1178 beds certified for participation in the Medicaid program (Section  
1179 43-13-101 et seq.), will not admit or keep any patients in the  
1180 nursing facility who are participating in the Medicaid program,  
1181 and will not submit any claim for Medicaid reimbursement for any  
1182 patient in the facility. This written agreement by the owner or  
1183 applicant shall be a condition of exercising the authority under  
1184 this subsection without a certificate of need, and the agreement  
1185 shall be fully binding on any subsequent owner of the nursing  
1186 facility if the ownership of the facility is transferred at any  
1187 time after the agreement is signed. After the written agreement  
1188 is signed, the Division of Medicaid and the State Department of

1189 Health shall not certify any beds in the nursing facility for  
1190 participation in the Medicaid program. If the nursing facility  
1191 violates the terms of the written agreement by participating in  
1192 the Medicaid program, having any beds certified for participation  
1193 in the Medicaid program, admitting or keeping any patient in the  
1194 facility who is participating in the Medicaid program, or  
1195 submitting any claim for Medicaid reimbursement for any patient in  
1196 the facility, the State Department of Health shall revoke the  
1197 license of the nursing facility at the time that the department  
1198 determines, after a hearing complying with due process, that the  
1199 facility has violated the terms of the written agreement.

1200 (b) For the purposes of this subsection, participation  
1201 in the Medicaid program by a nursing facility includes Medicaid  
1202 reimbursement of coinsurance and deductibles for recipients who  
1203 are qualified Medicare beneficiaries and/or those who are dually  
1204 eligible. Any nursing facility exercising the authority under  
1205 this subsection may not bill or submit a claim to the Division of  
1206 Medicaid for services to qualified Medicare beneficiaries and/or  
1207 those who are dually eligible.

1208 (c) The new construction of a nursing facility or  
1209 nursing facility beds or the conversion of other beds to nursing  
1210 facility beds described in this section must be either a part of a  
1211 completely new continuing care retirement community, as described  
1212 in the latest edition of the Mississippi State Health Plan, or an  
1213 addition to existing personal care and independent living  
1214 components, and so that the completed project will be a continuing  
1215 care retirement community, containing (i) independent living  
1216 accommodations, (ii) personal care beds, and (iii) the nursing  
1217 home facility beds. The three (3) components must be located on a  
1218 single site and be operated as one (1) inseparable facility. The  
1219 nursing facility component must contain a minimum of thirty (30)  
1220 beds. Any nursing facility beds authorized by this section will  
1221 not be counted against the bed need set forth in the State Health  
1222 Plan, as identified in Section 41-7-171, et seq.

1223           This subsection (14) shall stand repealed from and after July  
1224 1, 2001.

1225           (15) The State Department of Health shall issue a  
1226 certificate of need to any hospital which is currently licensed  
1227 for two hundred fifty (250) or more acute care beds and is located  
1228 in any general hospital service area not having a comprehensive  
1229 cancer center, for the establishment and equipping of such a  
1230 center which provides facilities and services for outpatient  
1231 radiation oncology therapy, outpatient medical oncology therapy,  
1232 and appropriate support services including the provision of  
1233 radiation therapy services. The provision of Section 41-7-193(1)  
1234 regarding substantial compliance with the projection of need as  
1235 reported in the current State Health Plan is waived for the  
1236 purpose of this subsection.

1237           SECTION 2. This act shall take effect and be in force from  
1238 and after its passage.