

By: Senator(s) Bean, Burton, Canon, Carlton, Carter, Dearing, Dickerson, Farris, Ferris, Frazier, Gordon, Harvey, Hewes, Huggins, Johnson (19th), Jordan (18th), Kirby, Little, Minor, Nunnelee, Posey, Rayborn, Scoper, Walls, White (29th), Woodfield, Smith, Jackson

To: Public Health and Welfare

SENATE BILL NO. 2486
 (As Passed the Senate)

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.