

By: Senator(s) Bean

To: Public Health and  
Welfare;  
Appropriations

SENATE BILL NO. 2537  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE AMOUNT OF CAPITAL EXPENDITURES BY HEALTH CARE  
3 FACILITIES WHICH REQUIRE A CERTIFICATE OF NEED REVIEW; TO AMEND  
4 SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO EXEMPT THE  
5 RELOCATION OF CERTAIN HEALTH CARE FACILITIES, SERVICES AND  
6 REPLACEMENT EQUIPMENT FROM THE REQUIREMENT OF A CERTIFICATE OF  
7 NEED REVIEW; TO BRING FORWARD SECTION 9 OF CHAPTER 482, LAWS OF  
8 1982, AS AMENDED; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 41-7-173, Mississippi Code of 1972, is  
11 amended as follows:

12 41-7-173. For the purposes of Section 41-7-171 et seq., the  
13 following words shall have the meanings ascribed herein, unless  
14 the context otherwise requires:

15 (a) "Affected person" means (i) the applicant; (ii) a  
16 person residing within the geographic area to be served by the  
17 applicant's proposal; (iii) a person who regularly uses health  
18 care facilities or HMO's located in the geographic area of the  
19 proposal which provide similar service to that which is proposed;  
20 (iv) health care facilities and HMO's which have, prior to receipt  
21 of the application under review, formally indicated an intention  
22 to provide service similar to that of the proposal being  
23 considered at a future date; (v) third-party payers who reimburse  
24 health care facilities located in the geographical area of the  
25 proposal; or (vi) any agency that establishes rates for health  
26 care services or HMO's located in the geographic area of the  
27 proposal.

28 (b) "Certificate of need" means a written order of the  
29 State Department of Health setting forth the affirmative finding  
30 that a proposal in prescribed application form, sufficiently

31 satisfies the plans, standards and criteria prescribed for such  
32 service or other project by Section 41-7-171 et seq., and by rules  
33 and regulations promulgated thereunder by the State Department of  
34 Health.

35 (c) (i) "Capital expenditure" when pertaining to  
36 defined major medical equipment, shall mean an expenditure which,  
37 under generally accepted accounting principles consistently  
38 applied, is not properly chargeable as an expense of operation and  
39 maintenance and which exceeds One Million Dollars (\$1,000,000.00).

40 (ii) "Capital expenditure," when pertaining to  
41 other than major medical equipment, shall mean any expenditure  
42 which under generally accepted accounting principles consistently  
43 applied is not properly chargeable as an expense of operation and  
44 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

45 (iii) A "capital expenditure" shall include the  
46 acquisition, whether by lease, sufferance, gift, devise, legacy,  
47 settlement of a trust or other means, of any facility or part  
48 thereof, or equipment for a facility, the expenditure for which  
49 would have been considered a capital expenditure if acquired by  
50 purchase. Transactions which are separated in time but are  
51 planned to be undertaken within twelve (12) months of each other  
52 and are components of an overall plan for meeting patient care  
53 objectives shall, for purposes of this definition, be viewed in  
54 their entirety without regard to their timing.

55 (iv) In those instances where a health care  
56 facility or other provider of health services proposes to provide  
57 a service in which the capital expenditure for major medical  
58 equipment or other than major medical equipment or a combination  
59 of the two (2) may have been split between separate parties, the  
60 total capital expenditure required to provide the proposed service  
61 shall be considered in determining the necessity of certificate of  
62 need review and in determining the appropriate certificate of need  
63 review fee to be paid. The capital expenditure associated with  
64 facilities and equipment to provide services in Mississippi shall  
65 be considered regardless of where the capital expenditure was  
66 made, in state or out of state, and regardless of the domicile of  
67 the party making the capital expenditure, in state or out of  
68 state.

69           (d) "Change of ownership" includes, but is not limited  
70 to, inter vivos gifts, purchases, transfers, lease arrangements,  
71 cash and/or stock transactions or other comparable arrangements  
72 whenever any person or entity acquires or controls a majority  
73 interest of the facility or service. Changes of ownership from  
74 partnerships, single proprietorships or corporations to another  
75 form of ownership are specifically included. Provided, however,  
76 "change of ownership" shall not include any inherited interest  
77 acquired as a result of a testamentary instrument or under the  
78 laws of descent and distribution of the State of Mississippi.

79           (e) "Commencement of construction" means that all of  
80 the following have been completed with respect to a proposal or  
81 project proposing construction, renovating, remodeling or  
82 alteration:

83                   (i) A legally binding written contract has been  
84 consummated by the proponent and a lawfully licensed contractor to  
85 construct and/or complete the intent of the proposal within a  
86 specified period of time in accordance with final architectural  
87 plans which have been approved by the licensing authority of the  
88 State Department of Health;

89                   (ii) Any and all permits and/or approvals deemed  
90 lawfully necessary by all authorities with responsibility for such  
91 have been secured; and

92                   (iii) Actual bona fide undertaking of the subject  
93 proposal has commenced, and a progress payment of at least one  
94 percent (1%) of the total cost price of the contract has been paid  
95 to the contractor by the proponent, and the requirements of this  
96 paragraph (e) have been certified to in writing by the State  
97 Department of Health.

98           Force account expenditures, such as deposits,  
99 securities, bonds, et cetera, may, in the discretion of the State  
100 Department of Health, be excluded from any or all of the  
101 provisions of defined commencement of construction.

102           (f) "Consumer" means an individual who is not a

103 provider of health care as defined in paragraph (q) of this  
104 section.

105 (g) "Develop," when used in connection with health  
106 services, means to undertake those activities which, on their  
107 completion, will result in the offering of a new institutional  
108 health service or the incurring of a financial obligation as  
109 defined under applicable state law in relation to the offering of  
110 such services.

111 (h) "Health care facility" includes hospitals,  
112 psychiatric hospitals, chemical dependency hospitals, skilled  
113 nursing facilities, end stage renal disease (ESRD) facilities,  
114 including freestanding hemodialysis units, intermediate care  
115 facilities, ambulatory surgical facilities, intermediate care  
116 facilities for the mentally retarded, home health agencies,  
117 psychiatric residential treatment facilities, pediatric skilled  
118 nursing facilities, long-term care hospitals, comprehensive  
119 medical rehabilitation facilities, including facilities owned or  
120 operated by the state or a political subdivision or  
121 instrumentality of the state, but does not include Christian  
122 Science sanatoriums operated or listed and certified by the First  
123 Church of Christ, Scientist, Boston, Massachusetts. This  
124 definition shall not apply to facilities for the private practice,  
125 either independently or by incorporated medical groups, of  
126 physicians, dentists or health care professionals except where  
127 such facilities are an integral part of an institutional health  
128 service. The various health care facilities listed in this  
129 paragraph shall be defined as follows:

130 (i) "Hospital" means an institution which is  
131 primarily engaged in providing to inpatients, by or under the  
132 supervision of physicians, diagnostic services and therapeutic  
133 services for medical diagnosis, treatment and care of injured,  
134 disabled or sick persons, or rehabilitation services for the  
135 rehabilitation of injured, disabled or sick persons. Such term  
136 does not include psychiatric hospitals.

137                   (ii) "Psychiatric hospital" means an institution  
138 which is primarily engaged in providing to inpatients, by or under  
139 the supervision of a physician, psychiatric services for the  
140 diagnosis and treatment of mentally ill persons.

141                   (iii) "Chemical dependency hospital" means an  
142 institution which is primarily engaged in providing to inpatients,  
143 by or under the supervision of a physician, medical and related  
144 services for the diagnosis and treatment of chemical dependency  
145 such as alcohol and drug abuse.

146                   (iv) "Skilled nursing facility" means an  
147 institution or a distinct part of an institution which is  
148 primarily engaged in providing to inpatients skilled nursing care  
149 and related services for patients who require medical or nursing  
150 care or rehabilitation services for the rehabilitation of injured,  
151 disabled or sick persons.

152                   (v) "End stage renal disease (ESRD) facilities"  
153 means kidney disease treatment centers, which includes  
154 freestanding hemodialysis units and limited care facilities. The  
155 term "limited care facility" generally refers to an  
156 off-hospital-premises facility, regardless of whether it is  
157 provider or nonprovider operated, which is engaged primarily in  
158 furnishing maintenance hemodialysis services to stabilized  
159 patients.

160                   (vi) "Intermediate care facility" means an  
161 institution which provides, on a regular basis, health related  
162 care and services to individuals who do not require the degree of  
163 care and treatment which a hospital or skilled nursing facility is  
164 designed to provide, but who, because of their mental or physical  
165 condition, require health related care and services (above the  
166 level of room and board).

167                   (vii) "Ambulatory surgical facility" means a  
168 facility primarily organized or established for the purpose of  
169 performing surgery for outpatients and is a separate identifiable  
170 legal entity from any other health care facility. Such term does

171 not include the offices of private physicians or dentists, whether  
172 for individual or group practice, and does not include any  
173 abortion facility as defined in Section 41-75-1(e).

174 (viii) "Intermediate care facility for the  
175 mentally retarded" means an intermediate care facility that  
176 provides health or rehabilitative services in a planned program of  
177 activities to the mentally retarded, also including, but not  
178 limited to, cerebral palsy and other conditions covered by the  
179 Federal Developmentally Disabled Assistance and Bill of Rights  
180 Act, Public Law 94-103.

181 (ix) "Home health agency" means a public or  
182 privately owned agency or organization, or a subdivision of such  
183 an agency or organization, properly authorized to conduct business  
184 in Mississippi, which is primarily engaged in providing to  
185 individuals at the written direction of a licensed physician, in  
186 the individual's place of residence, skilled nursing services  
187 provided by or under the supervision of a registered nurse  
188 licensed to practice in Mississippi, and one or more of the  
189 following services or items:

- 190 1. Physical, occupational or speech therapy;
- 191 2. Medical social services;
- 192 3. Part-time or intermittent services of a  
193 home health aide;
- 194 4. Other services as approved by the  
195 licensing agency for home health agencies;
- 196 5. Medical supplies, other than drugs and  
197 biologicals, and the use of medical appliances; or
- 198 6. Medical services provided by an intern or  
199 resident-in-training at a hospital under a teaching program of  
200 such hospital.

201 Further, all skilled nursing services and those  
202 services listed in items 1. through 4. of this subparagraph (ix)  
203 must be provided directly by the licensed home health agency. For  
204 purposes of this subparagraph, "directly" means either through an

205 agency employee or by an arrangement with another individual not  
206 defined as a health care facility.

207           This subparagraph (ix) shall not apply to health  
208 care facilities which had contracts for the above services with a  
209 home health agency on January 1, 1990.

210           (x) "Psychiatric residential treatment facility"  
211 means any nonhospital establishment with permanent licensed  
212 facilities which provides a twenty-four-hour program of care by  
213 qualified therapists including, but not limited to, duly licensed  
214 mental health professionals, psychiatrists, psychologists,  
215 psychotherapists and licensed certified social workers, for  
216 emotionally disturbed children and adolescents referred to such  
217 facility by a court, local school district or by the Department of  
218 Human Services, who are not in an acute phase of illness requiring  
219 the services of a psychiatric hospital, and are in need of such  
220 restorative treatment services. For purposes of this paragraph,  
221 the term "emotionally disturbed" means a condition exhibiting one  
222 or more of the following characteristics over a long period of  
223 time and to a marked degree, which adversely affects educational  
224 performance:

225                   1. An inability to learn which cannot be  
226 explained by intellectual, sensory or health factors;

227                   2. An inability to build or maintain  
228 satisfactory relationships with peers and teachers;

229                   3. Inappropriate types of behavior or  
230 feelings under normal circumstances;

231                   4. A general pervasive mood of unhappiness or  
232 depression; or

233                   5. A tendency to develop physical symptoms or  
234 fears associated with personal or school problems. An  
235 establishment furnishing primarily domiciliary care is not within  
236 this definition.

237           (xi) "Pediatric skilled nursing facility" means an  
238 institution or a distinct part of an institution that is primarily

239 engaged in providing to inpatients skilled nursing care and  
240 related services for persons under twenty-one (21) years of age  
241 who require medical or nursing care or rehabilitation services for  
242 the rehabilitation of injured, disabled or sick persons.

243 (xii) "Long-term care hospital" means a  
244 freestanding, Medicare-certified hospital that has an average  
245 length of inpatient stay greater than twenty-five (25) days, which  
246 is primarily engaged in providing chronic or long-term medical  
247 care to patients who do not require more than three (3) hours of  
248 rehabilitation or comprehensive rehabilitation per day, and has a  
249 transfer agreement with an acute care medical center and a  
250 comprehensive medical rehabilitation facility. Long-term care  
251 hospitals shall not use rehabilitation, comprehensive medical  
252 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
253 nursing home, skilled nursing facility, or sub-acute care facility  
254 in association with its name.

255 (xiii) "Comprehensive medical rehabilitation  
256 facility" means a hospital or hospital unit that is licensed  
257 and/or certified as a comprehensive medical rehabilitation  
258 facility which provides specialized programs that are accredited  
259 by the Commission on Accreditation of Rehabilitation Facilities  
260 and supervised by a physician board certified or board eligible in  
261 Physiatry or other doctor of medicine or osteopathy with at least  
262 two (2) years of training in the medical direction of a  
263 comprehensive rehabilitation program that:

- 264 1. Includes evaluation and treatment of  
265 individuals with physical disabilities;
- 266 2. Emphasizes education and training of  
267 individuals with disabilities;
- 268 3. Incorporates at least the following core  
269 disciplines:
  - 270 (i) Physical Therapy;
  - 271 (ii) Occupational Therapy;
  - 272 (iii) Speech and Language Therapy;



- 273 (iv) Rehabilitation Nursing; and  
274 4. Incorporates at least three (3) of the  
275 following disciplines:  
276 (i) Psychology;  
277 (ii) Audiology;  
278 (iii) Respiratory Therapy;  
279 (iv) Therapeutic Recreation;  
280 (v) Orthotics;  
281 (vi) Prosthetics;  
282 (vii) Special Education;  
283 (viii) Vocational Rehabilitation;  
284 (ix) Psychotherapy;  
285 (x) Social Work;  
286 (xi) Rehabilitation Engineering.

287 These specialized programs include, but are not limited  
288 to: spinal cord injury programs, head injury programs and infant  
289 and early childhood development programs.

290 (i) "Health maintenance organization" or "HMO" means a  
291 public or private organization organized under the laws of this  
292 state or the federal government which:

293 (i) Provides or otherwise makes available to  
294 enrolled participants health care services, including  
295 substantially the following basic health care services: usual  
296 physician services, hospitalization, laboratory, X-ray, emergency  
297 and preventive services, and out-of-area coverage;

298 (ii) Is compensated (except for copayments) for  
299 the provision of the basic health care services listed in  
300 subparagraph (i) of this paragraph to enrolled participants on a  
301 predetermined basis; and

302 (iii) Provides physician services primarily:

303 1. Directly through physicians who are either  
304 employees or partners of such organization; or

305 2. Through arrangements with individual  
306 physicians or one or more groups of physicians (organized on a

307 group practice or individual practice basis).

308           (j) "Health service area" means a geographic area of  
309 the state designated in the State Health Plan as the area to be  
310 used in planning for specified health facilities and services and  
311 to be used when considering certificate of need applications to  
312 provide health facilities and services.

313           (k) "Health services" means clinically related (i.e.,  
314 diagnostic, treatment or rehabilitative) services and includes  
315 alcohol, drug abuse, mental health and home health care services.

316           (l) "Institutional health services" shall mean health  
317 services provided in or through health care facilities and shall  
318 include the entities in or through which such services are  
319 provided.

320           (m) "Major medical equipment" means medical equipment  
321 designed for providing medical or any health related service which  
322 costs in excess of One Million Dollars (\$1,000,000.00). However,  
323 this definition shall not be applicable to clinical laboratories  
324 if they are determined by the State Department of Health to be  
325 independent of any physician's office, hospital or other health  
326 care facility or otherwise not so defined by federal or state law,  
327 or rules and regulations promulgated thereunder.

328           (n) "State Department of Health" shall mean the state  
329 agency created under Section 41-3-15, which shall be considered to  
330 be the State Health Planning and Development Agency, as defined in  
331 paragraph (t) of this section.

332           (o) "Offer," when used in connection with health  
333 services, means that it has been determined by the State  
334 Department of Health that the health care facility is capable of  
335 providing specified health services.

336           (p) "Person" means an individual, a trust or estate,  
337 partnership, corporation (including associations, joint stock  
338 companies and insurance companies), the state or a political  
339 subdivision or instrumentality of the state.

340           (q) "Provider" shall mean any person who is a provider

341 or representative of a provider of health care services requiring  
342 a certificate of need under Section 41-7-171 et seq., or who has  
343 any financial or indirect interest in any provider of services.

344 (r) "Secretary" means the Secretary of Health and Human  
345 Services, and any officer or employee of the Department of Health  
346 and Human Services to whom the authority involved has been  
347 delegated.

348 (s) "State health plan" means the sole and official  
349 statewide health plan for Mississippi which identifies priority  
350 state health needs and establishes standards and criteria for  
351 health-related activities which require certificate of need review  
352 in compliance with Section 41-7-191.

353 (t) "State Health Planning and Development Agency"  
354 means the agency of state government designated to perform health  
355 planning and resource development programs for the State of  
356 Mississippi.

357 SECTION 2. Section 41-7-191, Mississippi Code of 1972, is  
358 amended as follows:

359 41-7-191. (1) No person shall engage in any of the  
360 following activities without obtaining the required certificate of  
361 need:

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

364 (b) The relocation of a health care facility or portion  
365 thereof, or major medical equipment unless such relocation of a  
366 health care facility or portion thereof, or major medical  
367 equipment, which does not involve a capital expenditure by or on  
368 behalf of a health care facility, is within one thousand three  
369 hundred twenty (1,320) linear feet from the main entrance of the  
370 health care facility;

371 (c) A change over a period of two (2) years' time, as  
372 established by the State Department of Health, in existing bed  
373 complement through the addition of more than ten (10) beds or more  
374 than ten percent (10%) of the total bed capacity of a designated

375 licensed category or subcategory of any health care facility,  
376 whichever is less, from one physical facility or site to another;  
377 the conversion over a period of two (2) years' time, as  
378 established by the State Department of Health, of existing bed  
379 complement of more than ten (10) beds or more than ten percent  
380 (10%) of the total bed capacity of a designated licensed category  
381 or subcategory of any such health care facility, whichever is  
382 less; or the alteration, modernizing or refurbishing of any unit  
383 or department wherein such beds may be located; provided, however,  
384 that from and after July 1, 1994, no health care facility shall be  
385 authorized to add any beds or convert any beds to another category  
386 of beds without a certificate of need under the authority of  
387 subsection (1)(c) of this section unless there is a projected need  
388 for such beds in the planning district in which the facility is  
389 located, as reported in the most current State Health Plan;

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

- 394 (i) Open heart surgery services;
- 395 (ii) Cardiac catheterization services;
- 396 (iii) Comprehensive inpatient rehabilitation  
397 services;
- 398 (iv) Licensed psychiatric services;
- 399 (v) Licensed chemical dependency services;
- 400 (vi) Radiation therapy services;
- 401 (vii) Diagnostic imaging services of an invasive  
402 nature, i.e. invasive digital angiography;
- 403 (viii) Nursing home care as defined in  
404 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 405 (ix) Home health services;
- 406 (x) Swing-bed services;
- 407 (xi) Ambulatory surgical services;
- 408 (xii) Magnetic resonance imaging services;

409 (xiii) Extracorporeal shock wave lithotripsy  
410 services;

411 (xiv) Long-term care hospital services;

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

413 (e) The relocation of one or more health services from  
414 one physical facility or site to another physical facility or  
415 site, unless such relocation, which does not involve a capital  
416 expenditure by or on behalf of a health care facility, (i) is to a  
417 physical facility or site within one thousand three hundred twenty  
418 (1,320) linear feet from the main entrance of the health care  
419 facility where the health care service is located, or (ii) is the  
420 result of an order of a court of appropriate jurisdiction or a  
421 result of pending litigation in such court, or by order of the  
422 State Department of Health, or by order of any other agency or  
423 legal entity of the state, the federal government, or any  
424 political subdivision of either, whose order is also approved by  
425 the State Department of Health;

426 (f) The acquisition or otherwise control of any major  
427 medical equipment for the provision of medical services; provided,  
428 however, (i) that the acquisition of any major medical equipment  
429 used only for research purposes, and (ii) the acquisition of major  
430 medical equipment to replace medical equipment for which a  
431 facility is already providing medical services and for which the  
432 State Department of Health has been notified prior to the date of  
433 such acquisition shall be exempt from this paragraph; an  
434 acquisition for less than fair market value must be reviewed, if  
435 the acquisition at fair market value would be subject to review;

436 (g) Changes of ownership of existing health care  
437 facilities in which a notice of intent is not filed with the State  
438 Department of Health at least thirty (30) days prior to the date  
439 such change of ownership occurs, or a change in services or bed  
440 capacity as prescribed in paragraph (c) or (d) of this subsection  
441 as a result of the change of ownership; an acquisition for less  
442 than fair market value must be reviewed, if the acquisition at

443 fair market value would be subject to review;

444 (h) The change of ownership of any health care facility  
445 defined in subparagraphs (iv), (vi) and (viii) of Section  
446 41-7-173(h), in which a notice of intent as described in paragraph  
447 (g) has not been filed and if the Executive Director, Division of  
448 Medicaid, Office of the Governor, has not certified in writing  
449 that there will be no increase in allowable costs to Medicaid from  
450 revaluation of the assets or from increased interest and  
451 depreciation as a result of the proposed change of ownership;

452 (i) Any activity described in paragraphs (a) through  
453 (h) if undertaken by any person if that same activity would  
454 require certificate of need approval if undertaken by a health  
455 care facility;

456 (j) Any capital expenditure or deferred capital  
457 expenditure by or on behalf of a health care facility not covered  
458 by paragraphs (a) through (h);

459 (k) The contracting of a health care facility as  
460 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
461 to establish a home office, subunit, or branch office in the space  
462 operated as a health care facility through a formal arrangement  
463 with an existing health care facility as defined in subparagraph  
464 (ix) of Section 41-7-173(h).

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

472 (a) The total number of nursing home beds as defined in  
473 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be  
474 authorized by such certificates of need issued during the period  
475 beginning on July 1, 1989, and ending on June 30, 1999, shall not  
476 exceed one thousand four hundred seventy (1,470) beds. The number

477 of nursing home beds authorized under paragraphs (z), (cc), (dd),  
478 (ee) and (ff) of this subsection (2) shall not be counted in the  
479 limit on the total number of beds provided for in this paragraph  
480 (a).

481 (b) The department may issue a certificate of need to  
482 any of the hospitals in the state which have a distinct part  
483 component of the hospital that was constructed for extended care  
484 use (nursing home care) but is not currently licensed to provide  
485 nursing home care, which certificate of need will authorize the  
486 distinct part component to be operated to provide nursing home  
487 care after a license is obtained. The six (6) hospitals which  
488 currently have these distinct part components and which are  
489 eligible for a certificate of need under this section are:  
490 Webster General Hospital in Webster County, Tippah County General  
491 Hospital in Tippah County, Tishomingo County Hospital in  
492 Tishomingo County, North Sunflower County Hospital in Sunflower  
493 County, H.C. Watkins Hospital in Clarke County and Northwest  
494 Regional Medical Center in Coahoma County. Because the facilities  
495 to be considered currently exist and no new construction is  
496 required, the provision of Section 41-7-193(1) regarding  
497 substantial compliance with the projection of need as reported in  
498 the 1989 State Health Plan is waived. The total number of nursing  
499 home care beds that may be authorized by certificates of need  
500 issued under this paragraph shall not exceed one hundred  
501 fifty-four (154) beds.

502 (c) The department may issue a certificate of need to  
503 any person proposing the new construction of any health care  
504 facility defined in subparagraphs (iv) and (vi) of Section  
505 41-7-173(h) as part of a life care retirement facility, in any  
506 county bordering on the Gulf of Mexico in which is located a  
507 National Aeronautics and Space Administration facility, not to  
508 exceed forty (40) beds, provided that the owner of the health care  
509 facility on July 1, 1994, agrees in writing that no more than  
510 twenty (20) of the beds in the health care facility will be

511 certified for participation in the Medicaid program (Section  
512 43-13-101 et seq.), and that no claim will be submitted for  
513 Medicaid reimbursement for more than twenty (20) patients in the  
514 health care facility in any day or for any patient in the health  
515 care facility who is in a bed that is not Medicaid-certified.  
516 This written agreement by the owner of the health care facility on  
517 July 1, 1994, shall be fully binding on any subsequent owner of  
518 the health care facility if the ownership of the health care  
519 facility is transferred at any time after July 1, 1994. After  
520 this written agreement is executed, the Division of Medicaid and  
521 the State Department of Health shall not certify more than twenty  
522 (20) of the beds in the health care facility for participation in  
523 the Medicaid program. If the health care facility violates the  
524 terms of the written agreement by admitting or keeping in the  
525 health care facility on a regular or continuing basis more than  
526 twenty (20) patients who are participating in the Medicaid  
527 program, the State Department of Health shall revoke the license  
528 of the health care facility, at the time that the department  
529 determines, after a hearing complying with due process, that the  
530 health care facility has violated the terms of the written  
531 agreement as provided in this paragraph.

532 (d) The department may issue a certificate of need for  
533 the conversion of existing beds in a county district hospital or  
534 in a personal care home in Holmes County to provide nursing home  
535 care in the county. Because the facilities to be considered  
536 currently exist, no new construction shall be authorized by such  
537 certificate of need. Because the facilities to be considered  
538 currently exist and no new construction is required, the provision  
539 of Section 41-7-193(1) regarding substantial compliance with the  
540 projection of need as reported in the 1989 State Health Plan is  
541 waived. The total number of nursing home care beds that may be  
542 authorized by any certificate of need issued under this paragraph  
543 shall not exceed sixty (60) beds.

544 (e) The department may issue a certificate of need for



545 the conversion of existing hospital beds to provide nursing home  
546 care in a county hospital in Jasper County that has its own  
547 licensed nursing home located adjacent to the hospital. The total  
548 number of nursing home care beds that may be authorized by any  
549 certificate of need issued under this paragraph shall not exceed  
550 twenty (20) beds.

551 (f) The department may issue a certificate of need for  
552 the conversion of existing hospital beds in a hospital in Calhoun  
553 County to provide nursing home care in the county. The total  
554 number of nursing home care beds that may be authorized by any  
555 certificate of need issued under this paragraph shall not exceed  
556 twenty (20) beds.

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

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

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

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

575 (k) The department may issue certificates of need in  
576 Harrison County to provide skilled nursing home care for  
577 Alzheimer's Disease patients and other patients, not to exceed one  
578 hundred fifty (150) beds, provided that (i) the owner of the

579 health care facility issued a certificate of need for sixty (60)  
580 beds agrees in writing that no more than thirty (30) of the beds  
581 in the health care facility will be certified for participation in  
582 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner  
583 of one (1) of the health care facilities issued a certificate of  
584 need for forty-five (45) beds agrees in writing that no more than  
585 twenty-three (23) of the beds in the health care facility will be  
586 certified for participation in the Medicaid program, and (iii) the  
587 owner of the other health care facility issued a certificate of  
588 need for forty-five (45) beds agrees in writing that no more than  
589 twenty-two (22) of the beds in the health care facility will be  
590 certified for participation in the Medicaid program, and that no  
591 claim will be submitted for Medicaid reimbursement for a number of  
592 patients in the health care facility in any day that is greater  
593 than the number of beds certified for participation in the  
594 Medicaid program or for any patient in the health care facility  
595 who is in a bed that is not Medicaid-certified. These written  
596 agreements by the owners of the health care facilities on July 1,  
597 1995, shall be fully binding on any subsequent owner of any of the  
598 health care facilities if the ownership of any of the health care  
599 facilities is transferred at any time after July 1, 1995. After  
600 these written agreements are executed, the Division of Medicaid  
601 and the State Department of Health shall not certify for  
602 participation in the Medicaid program more than the number of beds  
603 authorized for participation in the Medicaid program under this  
604 paragraph (k) for each respective facility. If any of the health  
605 care facilities violates the terms of the written agreement by  
606 admitting or keeping in the health care facility on a regular or  
607 continuing basis a number of patients that is greater than the  
608 number of beds certified for participation in the Medicaid  
609 program, the State Department of Health shall revoke the license  
610 of the health care facility, at the time that the department  
611 determines, after a hearing complying with due process, that the  
612 health care facility has violated the terms of the written

613 agreement as provided in this paragraph.

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

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

624 (n) The department may issue a certificate of need to  
625 any intermediate care facility as defined in Section  
626 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)  
627 beds, for making additions to or expansion or replacement of the  
628 existing facility in order to increase the number of its beds to  
629 not more than sixty (60) beds. For the purposes of this  
630 paragraph, the provision of Section 41-7-193(1) requiring  
631 substantial compliance with the projection of need as reported in  
632 the current State Health Plan is waived. The total number of  
633 nursing home beds that may be authorized by any certificate of  
634 need issued under this paragraph shall not exceed twenty-five (25)  
635 beds.

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

642 (p) The department shall issue a certificate of need  
643 for the construction, expansion or conversion of nursing home  
644 care, not to exceed thirty-three (33) beds, in Pontotoc County.  
645 The provisions of Section 41-7-193(1) regarding substantial  
646 compliance with the projection of need as reported in the current

647 State Health Plan are hereby waived as to such construction,  
648 expansion or conversion.

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

655 (r) The department may issue a certificate of need for  
656 the addition to or expansion of any skilled nursing facility that  
657 is part of an existing continuing care retirement community  
658 located in Madison County, provided that the recipient of the  
659 certificate of need agrees in writing that the skilled nursing  
660 facility will not at any time participate in the Medicaid program  
661 (Section 43-13-101 et seq.) or admit or keep any patients in the  
662 skilled nursing facility who are participating in the Medicaid  
663 program. This written agreement by the recipient of the  
664 certificate of need shall be fully binding on any subsequent owner  
665 of the skilled nursing facility, if the ownership of the facility  
666 is transferred at any time after the issuance of the certificate  
667 of need. Agreement that the skilled nursing facility will not  
668 participate in the Medicaid program shall be a condition of the  
669 issuance of a certificate of need to any person under this  
670 paragraph (r), and if such skilled nursing facility at any time  
671 after the issuance of the certificate of need, regardless of the  
672 ownership of the facility, participates in the Medicaid program or  
673 admits or keeps any patients in the facility who are participating  
674 in the Medicaid program, the State Department of Health shall  
675 revoke the certificate of need, if it is still outstanding, and  
676 shall deny or revoke the license of the skilled nursing facility,  
677 at the time that the department determines, after a hearing  
678 complying with due process, that the facility has failed to comply  
679 with any of the conditions upon which the certificate of need was  
680 issued, as provided in this paragraph and in the written agreement

681 by the recipient of the certificate of need. The total number of  
682 beds that may be authorized under the authority of this paragraph  
683 (r) shall not exceed sixty (60) beds.

684 (s) The State Department of Health may issue a  
685 certificate of need to any hospital located in DeSoto County for  
686 the new construction of a skilled nursing facility, not to exceed  
687 one hundred twenty (120) beds, in DeSoto County, provided that the  
688 recipient of the certificate of need agrees in writing that no  
689 more than thirty (30) of the beds in the skilled nursing facility  
690 will be certified for participation in the Medicaid program  
691 (Section 43-13-101 et seq.), and that no claim will be submitted  
692 for Medicaid reimbursement for more than thirty (30) patients in  
693 the facility in any day or for any patient in the facility who is  
694 in a bed that is not Medicaid-certified. This written agreement  
695 by the recipient of the certificate of need shall be a condition  
696 of the issuance of the certificate of need under this paragraph,  
697 and the agreement shall be fully binding on any subsequent owner  
698 of the skilled nursing facility if the ownership of the facility  
699 is transferred at any time after the issuance of the certificate  
700 of need. After this written agreement is executed, the Division  
701 of Medicaid and the State Department of Health shall not certify  
702 more than thirty (30) of the beds in the skilled nursing facility  
703 for participation in the Medicaid program. If the skilled nursing  
704 facility violates the terms of the written agreement by admitting  
705 or keeping in the facility on a regular or continuing basis more  
706 than thirty (30) patients who are participating in the Medicaid  
707 program, the State Department of Health shall revoke the license  
708 of the facility, at the time that the department determines, after  
709 a hearing complying with due process, that the facility has  
710 violated the condition upon which the certificate of need was  
711 issued, as provided in this paragraph and in the written  
712 agreement. If the skilled nursing facility authorized by the  
713 certificate of need issued under this paragraph is not constructed  
714 and fully operational within eighteen (18) months after July 1,

715 1994, the State Department of Health, after a hearing complying  
716 with due process, shall revoke the certificate of need, if it is  
717 still outstanding, and shall not issue a license for the facility  
718 at any time after the expiration of the eighteen-month period.

719 (t) The State Department of Health may issue a  
720 certificate of need for the construction of a nursing facility or  
721 the conversion of beds to nursing facility beds at a personal care  
722 facility for the elderly in Lowndes County that is owned and  
723 operated by a Mississippi nonprofit corporation, not to exceed  
724 sixty (60) beds, provided that the recipient of the certificate of  
725 need agrees in writing that no more than thirty (30) of the beds  
726 at the facility will be certified for participation in the  
727 Medicaid program (Section 43-13-101 et seq.), and that no claim  
728 will be submitted for Medicaid reimbursement for more than thirty  
729 (30) patients in the facility in any month or for any patient in  
730 the facility who is in a bed that is not Medicaid-certified. This  
731 written agreement by the recipient of the certificate of need  
732 shall be a condition of the issuance of the certificate of need  
733 under this paragraph, and the agreement shall be fully binding on  
734 any subsequent owner of the facility if the ownership of the  
735 facility is transferred at any time after the issuance of the  
736 certificate of need. After this written agreement is executed,  
737 the Division of Medicaid and the State Department of Health shall  
738 not certify more than thirty (30) of the beds in the facility for  
739 participation in the Medicaid program. If the facility violates  
740 the terms of the written agreement by admitting or keeping in the  
741 facility on a regular or continuing basis more than thirty (30)  
742 patients who are participating in the Medicaid program, the State  
743 Department of Health shall revoke the license of the facility, at  
744 the time that the department determines, after a hearing complying  
745 with due process, that the facility has violated the condition  
746 upon which the certificate of need was issued, as provided in this  
747 paragraph and in the written agreement. If the nursing facility  
748 or nursing facility beds authorized by the certificate of need

749 issued under this paragraph are not constructed or converted and  
750 fully operational within eighteen (18) months after July 1, 1994,  
751 the State Department of Health, after a hearing complying with due  
752 process, shall revoke the certificate of need, if it is still  
753 outstanding, and shall not issue a license for the nursing  
754 facility or nursing facility beds at any time after the expiration  
755 of the eighteen-month period.

756 (u) The State Department of Health may issue a  
757 certificate of need for conversion of a county hospital facility  
758 in Itawamba County to a nursing facility, not to exceed sixty (60)  
759 beds, including any necessary construction, renovation or  
760 expansion, provided that the recipient of the certificate of need  
761 agrees in writing that no more than thirty (30) of the beds at the  
762 facility will be certified for participation in the Medicaid  
763 program (Section 43-13-101 et seq.), and that no claim will be  
764 submitted for Medicaid reimbursement for more than thirty (30)  
765 patients in the facility in any day or for any patient in the  
766 facility who is in a bed that is not Medicaid-certified. This  
767 written agreement by the recipient of the certificate of need  
768 shall be a condition of the issuance of the certificate of need  
769 under this paragraph, and the agreement shall be fully binding on  
770 any subsequent owner of the facility if the ownership of the  
771 facility is transferred at any time after the issuance of the  
772 certificate of need. After this written agreement is executed,  
773 the Division of Medicaid and the State Department of Health shall  
774 not certify more than thirty (30) of the beds in the facility for  
775 participation in the Medicaid program. If the facility violates  
776 the terms of the written agreement by admitting or keeping in the  
777 facility on a regular or continuing basis more than thirty (30)  
778 patients who are participating in the Medicaid program, the State  
779 Department of Health shall revoke the license of the facility, at  
780 the time that the department determines, after a hearing complying  
781 with due process, that the facility has violated the condition  
782 upon which the certificate of need was issued, as provided in this

783 paragraph and in the written agreement. If the beds authorized by  
784 the certificate of need issued under this paragraph are not  
785 converted to nursing facility beds and fully operational within  
786 eighteen (18) months after July 1, 1994, the State Department of  
787 Health, after a hearing complying with due process, shall revoke  
788 the certificate of need, if it is still outstanding, and shall not  
789 issue a license for the facility at any time after the expiration  
790 of the eighteen-month period.

791 (v) The State Department of Health may issue a  
792 certificate of need for the construction or expansion of nursing  
793 facility beds or the conversion of other beds to nursing facility  
794 beds in either Hinds, Madison or Rankin Counties, not to exceed  
795 sixty (60) beds, provided that the recipient of the certificate of  
796 need agrees in writing that no more than thirty (30) of the beds  
797 at the nursing facility will be certified for participation in the  
798 Medicaid program (Section 43-13-101 et seq.), and that no claim  
799 will be submitted for Medicaid reimbursement for more than thirty  
800 (30) patients in the nursing facility in any day or for any  
801 patient in the nursing facility who is in a bed that is not  
802 Medicaid-certified. This written agreement by the recipient of  
803 the certificate of need shall be a condition of the issuance of  
804 the certificate of need under this paragraph, and the agreement  
805 shall be fully binding on any subsequent owner of the nursing  
806 facility if the ownership of the nursing facility is transferred  
807 at any time after the issuance of the certificate of need. After  
808 this written agreement is executed, the Division of Medicaid and  
809 the State Department of Health shall not certify more than thirty  
810 (30) of the beds in the nursing facility for participation in the  
811 Medicaid program. If the nursing facility violates the terms of  
812 the written agreement by admitting or keeping in the nursing  
813 facility on a regular or continuing basis more than thirty (30)  
814 patients who are participating in the Medicaid program, the State  
815 Department of Health shall revoke the license of the nursing  
816 facility, at the time that the department determines, after a



817 hearing complying with due process, that the nursing facility has  
818 violated the condition upon which the certificate of need was  
819 issued, as provided in this paragraph and in the written  
820 agreement. If the nursing facility or nursing facility beds  
821 authorized by the certificate of need issued under this paragraph  
822 are not constructed, expanded or converted and fully operational  
823 within thirty-six (36) months after July 1, 1994, the State  
824 Department of Health, after a hearing complying with due process,  
825 shall revoke the certificate of need, if it is still outstanding,  
826 and shall not issue a license for the nursing facility or nursing  
827 facility beds at any time after the expiration of the  
828 thirty-six-month period.

829           (w) The State Department of Health may issue a  
830 certificate of need for the construction or expansion of nursing  
831 facility beds or the conversion of other beds to nursing facility  
832 beds in either Hancock, Harrison or Jackson Counties, not to  
833 exceed sixty (60) beds, provided that the recipient of the  
834 certificate of need agrees in writing that no more than thirty  
835 (30) of the beds at the nursing facility will be certified for  
836 participation in the Medicaid program (Section 43-13-101 et seq.),  
837 and that no claim will be submitted for Medicaid reimbursement for  
838 more than thirty (30) patients in the nursing facility in any day  
839 or for any patient in the nursing facility who is in a bed that is  
840 not Medicaid-certified. This written agreement by the recipient  
841 of the certificate of need shall be a condition of the issuance of  
842 the certificate of need under this paragraph, and the agreement  
843 shall be fully binding on any subsequent owner of the nursing  
844 facility if the ownership of the nursing facility is transferred  
845 at any time after the issuance of the certificate of need. After  
846 this written agreement is executed, the Division of Medicaid and  
847 the State Department of Health shall not certify more than thirty  
848 (30) of the beds in the nursing facility for participation in the  
849 Medicaid program. If the nursing facility violates the terms of  
850 the written agreement by admitting or keeping in the nursing

851 facility on a regular or continuing basis more than thirty (30)  
852 patients who are participating in the Medicaid program, the State  
853 Department of Health shall revoke the license of the nursing  
854 facility, at the time that the department determines, after a  
855 hearing complying with due process, that the nursing facility has  
856 violated the condition upon which the certificate of need was  
857 issued, as provided in this paragraph and in the written  
858 agreement. If the nursing facility or nursing facility beds  
859 authorized by the certificate of need issued under this paragraph  
860 are not constructed, expanded or converted and fully operational  
861 within thirty-six (36) months after July 1, 1994, the State  
862 Department of Health, after a hearing complying with due process,  
863 shall revoke the certificate of need, if it is still outstanding,  
864 and shall not issue a license for the nursing facility or nursing  
865 facility beds at any time after the expiration of the  
866 thirty-six-month period.

867 (x) The department may issue a certificate of need for  
868 the new construction of a skilled nursing facility in Leake  
869 County, provided that the recipient of the certificate of need  
870 agrees in writing that the skilled nursing facility will not at  
871 any time participate in the Medicaid program (Section 43-13-101 et  
872 seq.) or admit or keep any patients in the skilled nursing  
873 facility who are participating in the Medicaid program. This  
874 written agreement by the recipient of the certificate of need  
875 shall be fully binding on any subsequent owner of the skilled  
876 nursing facility, if the ownership of the facility is transferred  
877 at any time after the issuance of the certificate of need.  
878 Agreement that the skilled nursing facility will not participate  
879 in the Medicaid program shall be a condition of the issuance of a  
880 certificate of need to any person under this paragraph (x), and if  
881 such skilled nursing facility at any time after the issuance of  
882 the certificate of need, regardless of the ownership of the  
883 facility, participates in the Medicaid program or admits or keeps  
884 any patients in the facility who are participating in the Medicaid

885 program, the State Department of Health shall revoke the  
886 certificate of need, if it is still outstanding, and shall deny or  
887 revoke the license of the skilled nursing facility, at the time  
888 that the department determines, after a hearing complying with due  
889 process, that the facility has failed to comply with any of the  
890 conditions upon which the certificate of need was issued, as  
891 provided in this paragraph and in the written agreement by the  
892 recipient of the certificate of need. The provision of Section  
893 43-7-193(1) regarding substantial compliance of the projection of  
894 need as reported in the current State Health Plan is waived for  
895 the purposes of this paragraph. The total number of nursing  
896 facility beds that may be authorized by any certificate of need  
897 issued under this paragraph (x) shall not exceed sixty (60) beds.  
898 If the skilled nursing facility authorized by the certificate of  
899 need issued under this paragraph is not constructed and fully  
900 operational within eighteen (18) months after July 1, 1994, the  
901 State Department of Health, after a hearing complying with due  
902 process, shall revoke the certificate of need, if it is still  
903 outstanding, and shall not issue a license for the skilled nursing  
904 facility at any time after the expiration of the eighteen-month  
905 period.

906           (y) The department may issue a certificate of need in  
907 Jones County for making additions to or expansion or replacement  
908 of an existing forty-bed facility in order to increase the number  
909 of its beds to not more than sixty (60) beds. For the purposes of  
910 this paragraph, the provision of Section 41-7-193(1) requiring  
911 substantial compliance with the projection of need as reported in  
912 the current State Health Plan is waived. The total number of  
913 nursing home beds that may be authorized by any certificate of  
914 need issued under this paragraph shall not exceed twenty (20)  
915 beds.

916           (z) The department may issue certificates of need to  
917 allow any existing freestanding long-term care facility in  
918 Tishomingo County and Hancock County that on July 1, 1995, is

919 licensed with fewer than sixty (60) beds to increase the number of  
920 its beds to not more than sixty (60) beds, provided that the  
921 recipient of the certificate of need agrees in writing that none  
922 of the additional beds authorized by this paragraph (z) at the  
923 nursing facility will be certified for participation in the  
924 Medicaid program (Section 43-13-101 et seq.), and that no claim  
925 will be submitted for Medicaid reimbursement in the nursing  
926 facility for a number of patients in the nursing facility in any  
927 day that is greater than the number of licensed beds in the  
928 facility on July 1, 1995. This written agreement by the recipient  
929 of the certificate of need shall be a condition of the issuance of  
930 the certificate of need under this paragraph, and the agreement  
931 shall be fully binding on any subsequent owner of the nursing  
932 facility if the ownership of the nursing facility is transferred  
933 at any time after the issuance of the certificate of need. After  
934 this agreement is executed, the Division of Medicaid and the State  
935 Department of Health shall not certify more beds in the nursing  
936 facility for participation in the Medicaid program than the number  
937 of licensed beds in the facility on July 1, 1995. If the nursing  
938 facility violates the terms of the written agreement by admitting  
939 or keeping in the nursing facility on a regular or continuing  
940 basis a number of patients who are participating in the Medicaid  
941 program that is greater than the number of licensed beds in the  
942 facility on July 1, 1995, the State Department of Health shall  
943 revoke the license of the nursing facility, at the time that the  
944 department determines, after a hearing complying with due process,  
945 that the nursing facility has violated the condition upon which  
946 the certificate of need was issued, as provided in this paragraph  
947 and in the written agreement. For the purposes of this paragraph  
948 (z), the provision of Section 41-7-193(1) requiring substantial  
949 compliance with the projection of need as reported in the current  
950 State Health Plan is waived.

951 (aa) The department may issue a certificate of need for  
952 the construction of a nursing facility at a continuing care

953 retirement community in Lowndes County, provided that the  
954 recipient of the certificate of need agrees in writing that the  
955 nursing facility will not at any time participate in the Medicaid  
956 program (Section 43-13-101 et seq.) or admit or keep any patients  
957 in the nursing facility who are participating in the Medicaid  
958 program. This written agreement by the recipient of the  
959 certificate of need shall be fully binding on any subsequent owner  
960 of the nursing facility, if the ownership of the facility is  
961 transferred at any time after the issuance of the certificate of  
962 need. Agreement that the nursing facility will not participate in  
963 the Medicaid program shall be a condition of the issuance of a  
964 certificate of need to any person under this paragraph (aa), and  
965 if such nursing facility at any time after the issuance of the  
966 certificate of need, regardless of the ownership of the facility,  
967 participates in the Medicaid program or admits or keeps any  
968 patients in the facility who are participating in the Medicaid  
969 program, the State Department of Health shall revoke the  
970 certificate of need, if it is still outstanding, and shall deny or  
971 revoke the license of the nursing facility, at the time that the  
972 department determines, after a hearing complying with due process,  
973 that the facility has failed to comply with any of the conditions  
974 upon which the certificate of need was issued, as provided in this  
975 paragraph and in the written agreement by the recipient of the  
976 certificate of need. The total number of beds that may be  
977 authorized under the authority of this paragraph (aa) shall not  
978 exceed sixty (60) beds.

979 (bb) Provided that funds are specifically appropriated  
980 therefor by the Legislature, the department may issue a  
981 certificate of need to a rehabilitation hospital in Hinds County  
982 for the construction of a sixty-bed long-term care nursing  
983 facility dedicated to the care and treatment of persons with  
984 severe disabilities including persons with spinal cord and  
985 closed-head injuries and ventilator-dependent patients. The  
986 provision of Section 41-7-193(1) regarding substantial compliance

987 with projection of need as reported in the current State Health  
988 Plan is hereby waived for the purpose of this paragraph.

989 (cc) The State Department of Health may issue a  
990 certificate of need to a county-owned hospital in the Second  
991 Judicial District of Panola County for the conversion of not more  
992 than seventy-two (72) hospital beds to nursing facility beds,  
993 provided that the recipient of the certificate of need agrees in  
994 writing that none of the beds at the nursing facility will be  
995 certified for participation in the Medicaid program (Section  
996 43-13-101 et seq.), and that no claim will be submitted for  
997 Medicaid reimbursement in the nursing facility in any day or for  
998 any patient in the nursing facility. This written agreement by  
999 the recipient of the certificate of need shall be a condition of  
1000 the issuance of the certificate of need under this paragraph, and  
1001 the agreement shall be fully binding on any subsequent owner of  
1002 the nursing facility if the ownership of the nursing facility is  
1003 transferred at any time after the issuance of the certificate of  
1004 need. After this written agreement is executed, the Division of  
1005 Medicaid and the State Department of Health shall not certify any  
1006 of the beds in the nursing facility for participation in the  
1007 Medicaid program. If the nursing facility violates the terms of  
1008 the written agreement by admitting or keeping in the nursing  
1009 facility on a regular or continuing basis any patients who are  
1010 participating in the Medicaid program, the State Department of  
1011 Health shall revoke the license of the nursing facility, at the  
1012 time that the department determines, after a hearing complying  
1013 with due process, that the nursing facility has violated the  
1014 condition upon which the certificate of need was issued, as  
1015 provided in this paragraph and in the written agreement. If the  
1016 certificate of need authorized under this paragraph is not issued  
1017 within twelve (12) months after July 1, 1998, the department shall  
1018 deny the application for the certificate of need and shall not  
1019 issue the certificate of need at any time after the twelve-month  
1020 period, unless the issuance is contested. If the certificate of

1021 need is issued and substantial construction of the nursing  
1022 facility beds has not commenced within eighteen (18) months after  
1023 July 1, 1998, the State Department of Health, after a hearing  
1024 complying with due process, shall revoke the certificate of need  
1025 if it is still outstanding, and the department shall not issue a  
1026 license for the nursing facility at any time after the  
1027 eighteen-month period. Provided, however, that if the issuance of  
1028 the certificate of need is contested, the department shall require  
1029 substantial construction of the nursing facility beds within six  
1030 (6) months after final adjudication on the issuance of the  
1031 certificate of need.

1032 (dd) The department may issue a certificate of need for  
1033 the new construction, addition or conversion of skilled nursing  
1034 facility beds in Madison County, provided that the recipient of  
1035 the certificate of need agrees in writing that the skilled nursing  
1036 facility will not at any time participate in the Medicaid program  
1037 (Section 43-13-101 et seq.) or admit or keep any patients in the  
1038 skilled nursing facility who are participating in the Medicaid  
1039 program. This written agreement by the recipient of the  
1040 certificate of need shall be fully binding on any subsequent owner  
1041 of the skilled nursing facility, if the ownership of the facility  
1042 is transferred at any time after the issuance of the certificate  
1043 of need. Agreement that the skilled nursing facility will not  
1044 participate in the Medicaid program shall be a condition of the  
1045 issuance of a certificate of need to any person under this  
1046 paragraph (dd), and if such skilled nursing facility at any time  
1047 after the issuance of the certificate of need, regardless of the  
1048 ownership of the facility, participates in the Medicaid program or  
1049 admits or keeps any patients in the facility who are participating  
1050 in the Medicaid program, the State Department of Health shall  
1051 revoke the certificate of need, if it is still outstanding, and  
1052 shall deny or revoke the license of the skilled nursing facility,  
1053 at the time that the department determines, after a hearing  
1054 complying with due process, that the facility has failed to comply

1055 with any of the conditions upon which the certificate of need was  
1056 issued, as provided in this paragraph and in the written agreement  
1057 by the recipient of the certificate of need. The total number of  
1058 nursing facility beds that may be authorized by any certificate of  
1059 need issued under this paragraph (dd) shall not exceed sixty (60)  
1060 beds. If the certificate of need authorized under this paragraph  
1061 is not issued within twelve (12) months after July 1, 1998, the  
1062 department shall deny the application for the certificate of need  
1063 and shall not issue the certificate of need at any time after the  
1064 twelve-month period, unless the issuance is contested. If the  
1065 certificate of need is issued and substantial construction of the  
1066 nursing facility beds has not commenced within eighteen (18)  
1067 months after July 1, 1998, the State Department of Health, after a  
1068 hearing complying with due process, shall revoke the certificate  
1069 of need if it is still outstanding, and the department shall not  
1070 issue a license for the nursing facility at any time after the  
1071 eighteen-month period. Provided, however, that if the issuance of  
1072 the certificate of need is contested, the department shall require  
1073 substantial construction of the nursing facility beds within six  
1074 (6) months after final adjudication on the issuance of the  
1075 certificate of need.

1076 (ee) The department may issue a certificate of need for  
1077 the new construction, addition or conversion of skilled nursing  
1078 facility beds in Leake County, provided that the recipient of the  
1079 certificate of need agrees in writing that the skilled nursing  
1080 facility will not at any time participate in the Medicaid program  
1081 (Section 43-13-101 et seq.) or admit or keep any patients in the  
1082 skilled nursing facility who are participating in the Medicaid  
1083 program. This written agreement by the recipient of the  
1084 certificate of need shall be fully binding on any subsequent owner  
1085 of the skilled nursing facility, if the ownership of the facility  
1086 is transferred at any time after the issuance of the certificate  
1087 of need. Agreement that the skilled nursing facility will not  
1088 participate in the Medicaid program shall be a condition of the



1089 issuance of a certificate of need to any person under this  
1090 paragraph (ee), and if such skilled nursing facility at any time  
1091 after the issuance of the certificate of need, regardless of the  
1092 ownership of the facility, participates in the Medicaid program or  
1093 admits or keeps any patients in the facility who are participating  
1094 in the Medicaid program, the State Department of Health shall  
1095 revoke the certificate of need, if it is still outstanding, and  
1096 shall deny or revoke the license of the skilled nursing facility,  
1097 at the time that the department determines, after a hearing  
1098 complying with due process, that the facility has failed to comply  
1099 with any of the conditions upon which the certificate of need was  
1100 issued, as provided in this paragraph and in the written agreement  
1101 by the recipient of the certificate of need. The total number of  
1102 nursing facility beds that may be authorized by any certificate of  
1103 need issued under this paragraph (ee) shall not exceed sixty (60)  
1104 beds. If the certificate of need authorized under this paragraph  
1105 is not issued within twelve (12) months after July 1, 1998, the  
1106 department shall deny the application for the certificate of need  
1107 and shall not issue the certificate of need at any time after the  
1108 twelve-month period, unless the issuance is contested. If the  
1109 certificate of need is issued and substantial construction of the  
1110 nursing facility beds has not commenced within eighteen (18)  
1111 months after July 1, 1998, the State Department of Health, after a  
1112 hearing complying with due process, shall revoke the certificate  
1113 of need if it is still outstanding, and the department shall not  
1114 issue a license for the nursing facility at any time after the  
1115 eighteen-month period. Provided, however, that if the issuance of  
1116 the certificate of need is contested, the department shall require  
1117 substantial construction of the nursing facility beds within six  
1118 (6) months after final adjudication on the issuance of the  
1119 certificate of need.

1120 (ff) The department may issue a certificate of need for  
1121 the construction of a municipally-owned nursing facility within  
1122 the Town of Belmont in Tishomingo County, not to exceed sixty (60)

1123 beds, provided that the recipient of the certificate of need  
1124 agrees in writing that the skilled nursing facility will not at  
1125 any time participate in the Medicaid program (Section 43-13-101 et  
1126 seq.) or admit or keep any patients in the skilled nursing  
1127 facility who are participating in the Medicaid program. This  
1128 written agreement by the recipient of the certificate of need  
1129 shall be fully binding on any subsequent owner of the skilled  
1130 nursing facility, if the ownership of the facility is transferred  
1131 at any time after the issuance of the certificate of need.  
1132 Agreement that the skilled nursing facility will not participate  
1133 in the Medicaid program shall be a condition of the issuance of a  
1134 certificate of need to any person under this paragraph (ff), and  
1135 if such skilled nursing facility at any time after the issuance of  
1136 the certificate of need, regardless of the ownership of the  
1137 facility, participates in the Medicaid program or admits or keeps  
1138 any patients in the facility who are participating in the Medicaid  
1139 program, the State Department of Health shall revoke the  
1140 certificate of need, if it is still outstanding, and shall deny or  
1141 revoke the license of the skilled nursing facility, at the time  
1142 that the department determines, after a hearing complying with due  
1143 process, that the facility has failed to comply with any of the  
1144 conditions upon which the certificate of need was issued, as  
1145 provided in this paragraph and in the written agreement by the  
1146 recipient of the certificate of need. The provision of Section  
1147 43-7-193(1) regarding substantial compliance of the projection of  
1148 need as reported in the current State Health Plan is waived for  
1149 the purposes of this paragraph. If the certificate of need  
1150 authorized under this paragraph is not issued within twelve (12)  
1151 months after July 1, 1998, the department shall deny the  
1152 application for the certificate of need and shall not issue the  
1153 certificate of need at any time after the twelve-month period,  
1154 unless the issuance is contested. If the certificate of need is  
1155 issued and substantial construction of the nursing facility beds  
1156 has not commenced within eighteen (18) months after July 1, 1998,

1157 the State Department of Health, after a hearing complying with due  
1158 process, shall revoke the certificate of need if it is still  
1159 outstanding, and the department shall not issue a license for the  
1160 nursing facility at any time after the eighteen-month period.  
1161 Provided, however, that if the issuance of the certificate of need  
1162 is contested, the department shall require substantial  
1163 construction of the nursing facility beds within six (6) months  
1164 after final adjudication on the issuance of the certificate of  
1165 need.

1166 (3) If the holder of the certificate of need that was issued  
1167 before January 1, 1990, for the construction of a nursing home in  
1168 Claiborne County has not substantially undertaken commencement of  
1169 construction by completing site works and pouring foundations and  
1170 the floor slab of a nursing home in Claiborne County before May 1,  
1171 1990, as determined by the department, then the department shall  
1172 transfer such certificate of need to the Board of Supervisors of  
1173 Claiborne County upon the effective date of this subsection (3).  
1174 If the certificate of need is transferred to the board of  
1175 supervisors, it shall be valid for a period of twelve (12) months  
1176 and shall authorize the construction of a sixty-bed nursing home  
1177 on county-owned property or the conversion of vacant hospital beds  
1178 in the county hospital not to exceed sixty (60) beds.

1179 (4) The State Department of Health may grant approval for  
1180 and issue certificates of need to any person proposing the new  
1181 construction of, addition to, conversion of beds of or expansion  
1182 of any health care facility defined in subparagraph (x)  
1183 (psychiatric residential treatment facility) of Section  
1184 41-7-173(h). The total number of beds which may be authorized by  
1185 such certificates of need shall not exceed two hundred  
1186 seventy-four (274) beds for the entire state.

1187 (a) Of the total number of beds authorized under this  
1188 subsection, the department shall issue a certificate of need to a  
1189 privately owned psychiatric residential treatment facility in  
1190 Simpson County for the conversion of sixteen (16) intermediate

1191 care facility for the mentally retarded (ICF-MR) beds to  
1192 psychiatric residential treatment facility beds, provided that  
1193 facility agrees in writing that the facility shall give priority  
1194 for the use of those sixteen (16) beds to Mississippi residents  
1195 who are presently being treated in out-of-state facilities.

1196 (b) Of the total number of beds authorized under this  
1197 subsection, the department may issue a certificate or certificates  
1198 of need for the construction or expansion of psychiatric  
1199 residential treatment facility beds or the conversion of other  
1200 beds to psychiatric residential treatment facility beds in Warren  
1201 County, not to exceed sixty (60) psychiatric residential treatment  
1202 facility beds, provided that the facility agrees in writing that  
1203 no more than thirty (30) of the beds at the psychiatric  
1204 residential treatment facility will be certified for participation  
1205 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
1206 any patients other than those who are participating only in the  
1207 Medicaid program of another state, and that no claim will be  
1208 submitted to the Division of Medicaid for Medicaid reimbursement  
1209 for more than thirty (30) patients in the psychiatric residential  
1210 treatment facility in any day or for any patient in the  
1211 psychiatric residential treatment facility who is in a bed that is  
1212 not Medicaid-certified. This written agreement by the recipient  
1213 of the certificate of need shall be a condition of the issuance of  
1214 the certificate of need under this paragraph, and the agreement  
1215 shall be fully binding on any subsequent owner of the psychiatric  
1216 residential treatment facility if the ownership of the facility is  
1217 transferred at any time after the issuance of the certificate of  
1218 need. After this written agreement is executed, the Division of  
1219 Medicaid and the State Department of Health shall not certify more  
1220 than thirty (30) of the beds in the psychiatric residential  
1221 treatment facility for participation in the Medicaid program for  
1222 the use of any patients other than those who are participating  
1223 only in the Medicaid program of another state. If the psychiatric  
1224 residential treatment facility violates the terms of the written

1225 agreement by admitting or keeping in the facility on a regular or  
1226 continuing basis more than thirty (30) patients who are  
1227 participating in the Mississippi Medicaid program, the State  
1228 Department of Health shall revoke the license of the facility, at  
1229 the time that the department determines, after a hearing complying  
1230 with due process, that the facility has violated the condition  
1231 upon which the certificate of need was issued, as provided in this  
1232 paragraph and in the written agreement.

1233           (c) Of the total number of beds authorized under this  
1234 subsection, the department shall issue a certificate of need to a  
1235 hospital currently operating Medicaid-certified acute psychiatric  
1236 beds for adolescents in DeSoto County, for the establishment of a  
1237 forty-bed psychiatric residential treatment facility in DeSoto  
1238 County, provided that the hospital agrees in writing (i) that the  
1239 hospital shall give priority for the use of those forty (40) beds  
1240 to Mississippi residents who are presently being treated in  
1241 out-of-state facilities, and (ii) that no more than fifteen (15)  
1242 of the beds at the psychiatric residential treatment facility will  
1243 be certified for participation in the Medicaid program (Section  
1244 43-13-101 et seq.), and that no claim will be submitted for  
1245 Medicaid reimbursement for more than fifteen (15) patients in the  
1246 psychiatric residential treatment facility in any day or for any  
1247 patient in the psychiatric residential treatment facility who is  
1248 in a bed that is not Medicaid-certified. This written agreement  
1249 by the recipient of the certificate of need shall be a condition  
1250 of the issuance of the certificate of need under this paragraph,  
1251 and the agreement shall be fully binding on any subsequent owner  
1252 of the psychiatric residential treatment facility if the ownership  
1253 of the facility is transferred at any time after the issuance of  
1254 the certificate of need. After this written agreement is  
1255 executed, the Division of Medicaid and the State Department of  
1256 Health shall not certify more than fifteen (15) of the beds in the  
1257 psychiatric residential treatment facility for participation in  
1258 the Medicaid program. If the psychiatric residential treatment

1259 facility violates the terms of the written agreement by admitting  
1260 or keeping in the facility on a regular or continuing basis more  
1261 than fifteen (15) patients who are participating in the Medicaid  
1262 program, the State Department of Health shall revoke the license  
1263 of the facility, at the time that the department determines, after  
1264 a hearing complying with due process, that the facility has  
1265 violated the condition upon which the certificate of need was  
1266 issued, as provided in this paragraph and in the written  
1267 agreement.

1268 (d) Of the total number of beds authorized under this  
1269 subsection, the department may issue a certificate or certificates  
1270 of need for the construction or expansion of psychiatric  
1271 residential treatment facility beds or the conversion of other  
1272 beds to psychiatric treatment facility beds, not to exceed thirty  
1273 (30) psychiatric residential treatment facility beds, in either  
1274 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
1275 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

1276 (e) Of the total number of beds authorized under this  
1277 subsection (4) the department shall issue a certificate of need to  
1278 a privately owned, nonprofit psychiatric residential treatment  
1279 facility in Hinds County for an eight-bed expansion of the  
1280 facility, provided that the facility agrees in writing that the  
1281 facility shall give priority for the use of those eight (8) beds  
1282 to Mississippi residents who are presently being treated in  
1283 out-of-state facilities.

1284 (5) (a) From and after July 1, 1993, the department shall  
1285 not issue a certificate of need to any person for the new  
1286 construction of any hospital, psychiatric hospital or chemical  
1287 dependency hospital that will contain any child/adolescent  
1288 psychiatric or child/adolescent chemical dependency beds, or for  
1289 the conversion of any other health care facility to a hospital,  
1290 psychiatric hospital or chemical dependency hospital that will  
1291 contain any child/adolescent psychiatric or child/adolescent  
1292 chemical dependency beds, or for the addition of any

1293 child/adolescent psychiatric or child/adolescent chemical  
1294 dependency beds in any hospital, psychiatric hospital or chemical  
1295 dependency hospital, or for the conversion of any beds of another  
1296 category in any hospital, psychiatric hospital or chemical  
1297 dependency hospital to child/adolescent psychiatric or  
1298 child/adolescent chemical dependency beds, except as hereinafter  
1299 authorized:

1300                   (i) The department may issue certificates of need  
1301 to any person for any purpose described in this subsection,  
1302 provided that the hospital, psychiatric hospital or chemical  
1303 dependency hospital does not participate in the Medicaid program  
1304 (Section 43-13-101 et seq.) at the time of the application for the  
1305 certificate of need and the owner of the hospital, psychiatric  
1306 hospital or chemical dependency hospital agrees in writing that  
1307 the hospital, psychiatric hospital or chemical dependency hospital  
1308 will not at any time participate in the Medicaid program or admit  
1309 or keep any patients who are participating in the Medicaid program  
1310 in the hospital, psychiatric hospital or chemical dependency  
1311 hospital. This written agreement by the recipient of the  
1312 certificate of need shall be fully binding on any subsequent owner  
1313 of the hospital, psychiatric hospital or chemical dependency  
1314 hospital, if the ownership of the facility is transferred at any  
1315 time after the issuance of the certificate of need. Agreement  
1316 that the hospital, psychiatric hospital or chemical dependency  
1317 hospital will not participate in the Medicaid program shall be a  
1318 condition of the issuance of a certificate of need to any person  
1319 under this subparagraph (a)(i), and if such hospital, psychiatric  
1320 hospital or chemical dependency hospital at any time after the  
1321 issuance of the certificate of need, regardless of the ownership  
1322 of the facility, participates in the Medicaid program or admits or  
1323 keeps any patients in the hospital, psychiatric hospital or  
1324 chemical dependency hospital who are participating in the Medicaid  
1325 program, the State Department of Health shall revoke the  
1326 certificate of need, if it is still outstanding, and shall deny or

1327 revoke the license of the hospital, psychiatric hospital or  
1328 chemical dependency hospital, at the time that the department  
1329 determines, after a hearing complying with due process, that the  
1330 hospital, psychiatric hospital or chemical dependency hospital has  
1331 failed to comply with any of the conditions upon which the  
1332 certificate of need was issued, as provided in this subparagraph  
1333 and in the written agreement by the recipient of the certificate  
1334 of need.

1335           (ii) The department may issue a certificate of  
1336 need for the conversion of existing beds in a county hospital in  
1337 Choctaw County from acute care beds to child/adolescent chemical  
1338 dependency beds. For purposes of this paragraph, the provisions  
1339 of Section 41-7-193(1) requiring substantial compliance with the  
1340 projection of need as reported in the current State Health Plan is  
1341 waived. The total number of beds that may be authorized under  
1342 authority of this paragraph shall not exceed twenty (20) beds.  
1343 There shall be no prohibition or restrictions on participation in  
1344 the Medicaid program (Section 43-13-101 et seq.) for the hospital  
1345 receiving the certificate of need authorized under this  
1346 subparagraph (a)(ii) or for the beds converted pursuant to the  
1347 authority of that certificate of need.

1348           (iii) The department may issue a certificate or  
1349 certificates of need for the construction or expansion of  
1350 child/adolescent psychiatric beds or the conversion of other beds  
1351 to child/adolescent psychiatric beds in Warren County. For  
1352 purposes of this subparagraph, the provisions of Section  
1353 41-7-193(1) requiring substantial compliance with the projection  
1354 of need as reported in the current State Health Plan are waived.  
1355 The total number of beds that may be authorized under the  
1356 authority of this subparagraph shall not exceed twenty (20) beds.

1357 There shall be no prohibition or restrictions on participation in  
1358 the Medicaid program (Section 43-13-101 et seq.) for the person  
1359 receiving the certificate of need authorized under this  
1360 subparagraph (a)(iii) or for the beds converted pursuant to the



1361 authority of that certificate of need.

1362 (iv) The department shall issue a certificate of  
1363 need to the Region 7 Mental Health/Retardation Commission for the  
1364 construction or expansion of child/adolescent psychiatric beds or  
1365 the conversion of other beds to child/adolescent psychiatric beds  
1366 in any of the counties served by the commission. For purposes of  
1367 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1368 substantial compliance with the projection of need as reported in  
1369 the current State Health Plan is waived. The total number of beds  
1370 that may be authorized under the authority of this subparagraph  
1371 shall not exceed twenty (20) beds. There shall be no prohibition  
1372 or restrictions on participation in the Medicaid program (Section  
1373 43-13-101 et seq.) for the person receiving the certificate of  
1374 need authorized under this subparagraph (a)(iv) or for the beds  
1375 converted pursuant to the authority of that certificate of need.

1376 (v) The department may issue a certificate of need  
1377 to any county hospital located in Leflore County for the  
1378 construction or expansion of adult psychiatric beds or the  
1379 conversion of other beds to adult psychiatric beds, not to exceed  
1380 twenty (20) beds, provided that the recipient of the certificate  
1381 of need agrees in writing that the adult psychiatric beds will not  
1382 at any time be certified for participation in the Medicaid program  
1383 and that the hospital will not admit or keep any patients who are  
1384 participating in the Medicaid program in any of such adult  
1385 psychiatric beds. This written agreement by the recipient of the  
1386 certificate of need shall be fully binding on any subsequent owner  
1387 of the hospital if the ownership of the hospital is transferred at  
1388 any time after the issuance of the certificate of need. Agreement  
1389 that the adult psychiatric beds will not be certified for  
1390 participation in the Medicaid program shall be a condition of the  
1391 issuance of a certificate of need to any person under this  
1392 subparagraph (a)(v), and if such hospital at any time after the  
1393 issuance of the certificate of need, regardless of the ownership  
1394 of the hospital, has any of such adult psychiatric beds certified

1395 for participation in the Medicaid program or admits or keeps any  
1396 Medicaid patients in such adult psychiatric beds, the State  
1397 Department of Health shall revoke the certificate of need, if it  
1398 is still outstanding, and shall deny or revoke the license of the  
1399 hospital at the time that the department determines, after a  
1400 hearing complying with due process, that the hospital has failed  
1401 to comply with any of the conditions upon which the certificate of  
1402 need was issued, as provided in this subparagraph and in the  
1403 written agreement by the recipient of the certificate of need.

1404 (b) From and after July 1, 1990, no hospital,  
1405 psychiatric hospital or chemical dependency hospital shall be  
1406 authorized to add any child/adolescent psychiatric or  
1407 child/adolescent chemical dependency beds or convert any beds of  
1408 another category to child/adolescent psychiatric or  
1409 child/adolescent chemical dependency beds without a certificate of  
1410 need under the authority of subsection (1)(c) of this section.

1411 (6) The department may issue a certificate of need to a  
1412 county hospital in Winston County for the conversion of fifteen  
1413 (15) acute care beds to geriatric psychiatric care beds.

1414 (7) The State Department of Health shall issue a certificate  
1415 of need to a Mississippi corporation qualified to manage a  
1416 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1417 Harrison County, not to exceed eighty (80) beds, including any  
1418 necessary renovation or construction required for licensure and  
1419 certification, provided that the recipient of the certificate of  
1420 need agrees in writing that the long-term care hospital will not  
1421 at any time participate in the Medicaid program (Section 43-13-101  
1422 et seq.) or admit or keep any patients in the long-term care  
1423 hospital who are participating in the Medicaid program. This  
1424 written agreement by the recipient of the certificate of need  
1425 shall be fully binding on any subsequent owner of the long-term  
1426 care hospital, if the ownership of the facility is transferred at  
1427 any time after the issuance of the certificate of need. Agreement  
1428 that the long-term care hospital will not participate in the

1429 Medicaid program shall be a condition of the issuance of a  
1430 certificate of need to any person under this subsection (7), and  
1431 if such long-term care hospital at any time after the issuance of  
1432 the certificate of need, regardless of the ownership of the  
1433 facility, participates in the Medicaid program or admits or keeps  
1434 any patients in the facility who are participating in the Medicaid  
1435 program, the State Department of Health shall revoke the  
1436 certificate of need, if it is still outstanding, and shall deny or  
1437 revoke the license of the long-term care hospital, at the time  
1438 that the department determines, after a hearing complying with due  
1439 process, that the facility has failed to comply with any of the  
1440 conditions upon which the certificate of need was issued, as  
1441 provided in this paragraph and in the written agreement by the  
1442 recipient of the certificate of need. For purposes of this  
1443 paragraph, the provision of Section 41-7-193(1) requiring  
1444 substantial compliance with the projection of need as reported in  
1445 the current State Health Plan is hereby waived.

1446 (8) The State Department of Health may issue a certificate  
1447 of need to any hospital in the state to utilize a portion of its  
1448 beds for the "swing-bed" concept. Any such hospital must be in  
1449 conformance with the federal regulations regarding such swing-bed  
1450 concept at the time it submits its application for a certificate  
1451 of need to the State Department of Health, except that such  
1452 hospital may have more licensed beds or a higher average daily  
1453 census (ADC) than the maximum number specified in federal  
1454 regulations for participation in the swing-bed program. Any  
1455 hospital meeting all federal requirements for participation in the  
1456 swing-bed program which receives such certificate of need shall  
1457 render services provided under the swing-bed concept to any  
1458 patient eligible for Medicare (Title XVIII of the Social Security  
1459 Act) who is certified by a physician to be in need of such  
1460 services, and no such hospital shall permit any patient who is  
1461 eligible for both Medicaid and Medicare or eligible only for  
1462 Medicaid to stay in the swing beds of the hospital for more than

1463 thirty (30) days per admission unless the hospital receives prior  
1464 approval for such patient from the Division of Medicaid, Office of  
1465 the Governor. Any hospital having more licensed beds or a higher  
1466 average daily census (ADC) than the maximum number specified in  
1467 federal regulations for participation in the swing-bed program  
1468 which receives such certificate of need shall develop a procedure  
1469 to insure that before a patient is allowed to stay in the swing  
1470 beds of the hospital, there are no vacant nursing home beds  
1471 available for that patient located within a fifty-mile radius of  
1472 the hospital. When any such hospital has a patient staying in the  
1473 swing beds of the hospital and the hospital receives notice from a  
1474 nursing home located within such radius that there is a vacant bed  
1475 available for that patient, the hospital shall transfer the  
1476 patient to the nursing home within a reasonable time after receipt  
1477 of the notice. Any hospital which is subject to the requirements  
1478 of the two (2) preceding sentences of this paragraph may be  
1479 suspended from participation in the swing-bed program for a  
1480 reasonable period of time by the State Department of Health if the  
1481 department, after a hearing complying with due process, determines  
1482 that the hospital has failed to comply with any of those  
1483 requirements.

1484 (9) The Department of Health shall not grant approval for or  
1485 issue a certificate of need to any person proposing the new  
1486 construction of, addition to or expansion of a health care  
1487 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1488 (10) The Department of Health shall not grant approval for  
1489 or issue a certificate of need to any person proposing the  
1490 establishment of, or expansion of the currently approved territory  
1491 of, or the contracting to establish a home office, subunit or  
1492 branch office within the space operated as a health care facility  
1493 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1494 care facility as defined in subparagraph (ix) of Section  
1495 41-7-173(h).

1496 (11) Health care facilities owned and/or operated by the

1497 state or its agencies are exempt from the restraints in this  
1498 section against issuance of a certificate of need if such addition  
1499 or expansion consists of repairing or renovation necessary to  
1500 comply with the state licensure law. This exception shall not  
1501 apply to the new construction of any building by such state  
1502 facility. This exception shall not apply to any health care  
1503 facilities owned and/or operated by counties, municipalities,  
1504 districts, unincorporated areas, other defined persons, or any  
1505 combination thereof.

1506 (12) The new construction, renovation or expansion of or  
1507 addition to any health care facility defined in subparagraph (ii)  
1508 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1509 facility), subparagraph (vi) (intermediate care facility),  
1510 subparagraph (viii) (intermediate care facility for the mentally  
1511 retarded) and subparagraph (x) (psychiatric residential treatment  
1512 facility) of Section 41-7-173(h) which is owned by the State of  
1513 Mississippi and under the direction and control of the State  
1514 Department of Mental Health, and the addition of new beds or the  
1515 conversion of beds from one category to another in any such  
1516 defined health care facility which is owned by the State of  
1517 Mississippi and under the direction and control of the State  
1518 Department of Mental Health, shall not require the issuance of a  
1519 certificate of need under Section 41-7-171 et seq.,  
1520 notwithstanding any provision in Section 41-7-171 et seq. to the  
1521 contrary.

1522 (13) The new construction, renovation or expansion of or  
1523 addition to any veterans homes or domiciliaries for eligible  
1524 veterans of the State of Mississippi as authorized under Section  
1525 35-1-19 shall not require the issuance of a certificate of need,  
1526 notwithstanding any provision in Section 41-7-171 et seq. to the  
1527 contrary.

1528 (14) The new construction of a nursing facility or nursing  
1529 facility beds or the conversion of other beds to nursing facility  
1530 beds shall not require the issuance of a certificate of need,

1531 notwithstanding any provision in Section 41-7-171 et seq. to the  
1532 contrary, if the conditions of this subsection are met.

1533           (a) Before any construction or conversion may be  
1534 undertaken without a certificate of need, the owner of the nursing  
1535 facility, in the case of an existing facility, or the applicant to  
1536 construct a nursing facility, in the case of new construction,  
1537 first must file a written notice of intent and sign a written  
1538 agreement with the State Department of Health that the entire  
1539 nursing facility will not at any time participate in or have any  
1540 beds certified for participation in the Medicaid program (Section  
1541 43-13-101 et seq.), will not admit or keep any patients in the  
1542 nursing facility who are participating in the Medicaid program,  
1543 and will not submit any claim for Medicaid reimbursement for any  
1544 patient in the facility. This written agreement by the owner or  
1545 applicant shall be a condition of exercising the authority under  
1546 this subsection without a certificate of need, and the agreement  
1547 shall be fully binding on any subsequent owner of the nursing  
1548 facility if the ownership of the facility is transferred at any  
1549 time after the agreement is signed. After the written agreement  
1550 is signed, the Division of Medicaid and the State Department of  
1551 Health shall not certify any beds in the nursing facility for  
1552 participation in the Medicaid program. If the nursing facility  
1553 violates the terms of the written agreement by participating in  
1554 the Medicaid program, having any beds certified for participation  
1555 in the Medicaid program, admitting or keeping any patient in the  
1556 facility who is participating in the Medicaid program, or  
1557 submitting any claim for Medicaid reimbursement for any patient in  
1558 the facility, the State Department of Health shall revoke the  
1559 license of the nursing facility at the time that the department  
1560 determines, after a hearing complying with due process, that the  
1561 facility has violated the terms of the written agreement.

1562           (b) For the purposes of this subsection, participation  
1563 in the Medicaid program by a nursing facility includes Medicaid  
1564 reimbursement of coinsurance and deductibles for recipients who

1565 are qualified Medicare beneficiaries and/or those who are dually  
1566 eligible. Any nursing facility exercising the authority under  
1567 this subsection may not bill or submit a claim to the Division of  
1568 Medicaid for services to qualified Medicare beneficiaries and/or  
1569 those who are dually eligible.

1570 (c) The new construction of a nursing facility or  
1571 nursing facility beds or the conversion of other beds to nursing  
1572 facility beds described in this section must be either a part of a  
1573 completely new continuing care retirement community, as described  
1574 in the latest edition of the Mississippi State Health Plan, or an  
1575 addition to existing personal care and independent living  
1576 components, and so that the completed project will be a continuing  
1577 care retirement community, containing (i) independent living  
1578 accommodations, (ii) personal care beds, and (iii) the nursing  
1579 home facility beds. The three (3) components must be located on a  
1580 single site and be operated as one (1) inseparable facility. The  
1581 nursing facility component must contain a minimum of thirty (30)  
1582 beds. Any nursing facility beds authorized by this section will  
1583 not be counted against the bed need set forth in the State Health  
1584 Plan, as identified in Section 41-7-171 et seq.

1585 This subsection (14) shall stand repealed from and after July  
1586 1, 2001.

1587 SECTION 3. Section 9 of Chapter 482, Laws of 1982, as  
1588 amended by Chapter 306, Laws of 1984, as amended by Chapter 437,  
1589 Laws of 1986, as amended by Chapter 515, Laws of 1987, is brought  
1590 forward as follows:

1591 Section 9. (1) The State Department of Health is hereby  
1592 authorized and empowered to assess fees for reviewing applications  
1593 for certificates of need. The State Department of Health shall  
1594 promulgate such rules and regulations as are necessary to  
1595 effectuate the intent of this section in keeping with the  
1596 standards hereinbelow:

1597 (a) The fees assessed shall be uniform to all  
1598 applicants.

1599           (b) The fees assessed shall be nonrefundable.

1600           (c) The fee shall be five tenths of one percent (.5 of  
1601 1%) of the amount of a proposed capital expenditure.

1602           (d) The minimum fee shall not be less than Five Hundred  
1603 Dollars (\$500.00) regardless of the amount of the proposed capital  
1604 expenditure, and the maximum fee permitted shall not exceed  
1605 Twenty-five Thousand Dollars (\$25,000.00), regardless of category.

1606           (e) No application shall be deemed complete for the  
1607 review process until such required fee is received by the State  
1608 Department of Health.

1609           (f) The required fee shall be paid to the State  
1610 Department of Health and may be paid by check, draft or money  
1611 order.

1612           (g) There shall be no filing fee requirement for any  
1613 application submitted by an agency, department, institution or  
1614 facility which is operated, owned by and/or controlled by the  
1615 State of Mississippi and which received operating and/or capital  
1616 expenditure funds solely by appropriations from the Legislature of  
1617 the state.

1618           (h) There shall be no filing fee requirement for any  
1619 application for repairs or renovations determined by the State  
1620 Department of Health in writing, to be necessary in order to avoid  
1621 revocation of license and/or loss of certification for  
1622 participation in the Medicaid and/or Medicare programs. Any  
1623 proposed expenditure in excess of the amount determined by the  
1624 State Department of Health to be necessary to accomplish the  
1625 stated purposes shall be subject to the fee requirements of this  
1626 section.

1627           (2) The revenue derived from the fees imposed in subsection  
1628 (1) of this section shall be deposited by the State Department of  
1629 Health in a special fund, hereby created in the State Treasury,  
1630 which is earmarked for use by the State Department of Health in  
1631 conducting its health planning and certificate of need review  
1632 activities. It is the intent of the Legislature that the health



1633 planning and certificate of need programs be continued for the  
1634 protection of the individuals within the state requiring health  
1635 care.

1636 (3) The State Department of Health is authorized and  
1637 empowered to assess fees for reviewing applications for  
1638 certificates of authority for health maintenance organizations and  
1639 for the issuance and renewal of such certificates of authority.  
1640 The fees assessed shall be uniform to all applicants and to all  
1641 holders of certificates of authority, and shall be nonrefundable.

1642 The fees for applications, original certificates of authority and  
1643 renewals of certificates of authority shall not exceed Five  
1644 Thousand Dollars (\$5,000.00) each. The revenues derived from the  
1645 fees assessed under this subsection shall be deposited by the  
1646 department in a special fund hereby created in the State Treasury,  
1647 which is earmarked for the use of the department in its regulation  
1648 of the operation of health maintenance organizations.

1649 SECTION 4. This act shall take effect and be in force from  
1650 and after July 1, 1999.