

By: Senator(s) Hall

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2668

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE RESTRICTIONS OF PARTICIPATION IN THE MEDICAID
3 PROGRAM FOR CERTAIN NURSING HOME BEDS IN HINDS COUNTY THAT WERE
4 AUTHORIZED BY CERTIFICATE OF NEED; AND FOR RELATED PURPOSES.

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

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

8 41-7-191. (1) No person shall engage in any of the
9 following activities without obtaining the required certificate of
10 need:

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

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

15 (c) A change over a period of two (2) years' time, as
16 established by the State Department of Health, in existing bed
17 complement through the addition of more than ten (10) beds or more
18 than ten percent (10%) of the total bed capacity of a designated
19 licensed category or subcategory of any health care facility,
20 whichever is less, from one physical facility or site to another;
21 the conversion over a period of two (2) years' time, as
22 established by the State Department of Health, of existing bed
23 complement of more than ten (10) beds or more than ten percent
24 (10%) of the total bed capacity of a designated licensed category
25 or subcategory of any such health care facility, whichever is
26 less; or the alteration, modernizing or refurbishing of any unit
27 or department wherein such beds may be located; provided, however,
28 that from and after July 1, 1994, no health care facility shall be

29 authorized to add any beds or convert any beds to another category
30 of beds without a certificate of need under the authority of
31 subsection (1)(c) of this section unless there is a projected need
32 for such beds in the planning district in which the facility is
33 located, as reported in the most current State Health Plan;

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

38 (i) Open heart surgery services;

39 (ii) Cardiac catheterization services;

40 (iii) Comprehensive inpatient rehabilitation
41 services;

42 (iv) Licensed psychiatric services;

43 (v) Licensed chemical dependency services;

44 (vi) Radiation therapy services;

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

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

49 (ix) Home health services;

50 (x) Swing-bed services;

51 (xi) Ambulatory surgical services;

52 (xii) Magnetic resonance imaging services;

53 (xiii) Extracorporeal shock wave lithotripsy
54 services;

55 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

101 (ix) of Section 41-7-173(h).

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

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

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

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

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

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

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

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

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

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

202 (i) The department may issue a certificate of need to

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

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

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

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

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

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

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

271 need issued under this paragraph shall not exceed twenty-five (25)
272 beds.

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

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

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

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

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

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

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

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

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

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

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

428 (v) The State Department of Health may issue a
429 certificate of need for the construction or expansion of nursing
430 facility beds or the conversion of other beds to nursing facility
431 beds in either Hinds, Madison or Rankin Counties, not to exceed
432 sixty (60) beds * * *. * * * From and after July 1, 1999, there
433 shall be no prohibition of restrictions on participation in the
434 Medicaid program (Section 43-13-101 et seq.) for the beds in the
435 nursing facilities that were authorized under this paragraph (v).

436 (w) The State Department of Health may issue a
437 certificate of need for the construction or expansion of nursing
438 facility beds or the conversion of other beds to nursing facility
439 beds in either Hancock, Harrison or Jackson Counties, not to
440 exceed sixty (60) beds, provided that the recipient of the

441 certificate of need agrees in writing that no more than thirty
442 (30) of the beds at the nursing facility will be certified for
443 participation in the Medicaid program (Section 43-13-101 et seq.),
444 and that no claim will be submitted for Medicaid reimbursement for
445 more than thirty (30) patients in the nursing facility in any day
446 or for any patient in the nursing facility who is in a bed that is
447 not Medicaid-certified. This written agreement by the recipient
448 of the certificate of need shall be a condition of the issuance of
449 the certificate of need under this paragraph, and the agreement
450 shall be fully binding on any subsequent owner of the nursing
451 facility if the ownership of the nursing facility is transferred
452 at any time after the issuance of the certificate of need. After
453 this written agreement is executed, the Division of Medicaid and
454 the State Department of Health shall not certify more than thirty
455 (30) of the beds in the nursing facility for participation in the
456 Medicaid program. If the nursing facility violates the terms of
457 the written agreement by admitting or keeping in the nursing
458 facility on a regular or continuing basis more than thirty (30)
459 patients who are participating in the Medicaid program, the State
460 Department of Health shall revoke the license of the nursing
461 facility, at the time that the department determines, after a
462 hearing complying with due process, that the nursing facility has
463 violated the condition upon which the certificate of need was
464 issued, as provided in this paragraph and in the written
465 agreement. If the nursing facility or nursing facility beds
466 authorized by the certificate of need issued under this paragraph
467 are not constructed, expanded or converted and fully operational
468 within thirty-six (36) months after July 1, 1994, the State
469 Department of Health, after a hearing complying with due process,
470 shall revoke the certificate of need, if it is still outstanding,
471 and shall not issue a license for the nursing facility or nursing
472 facility beds at any time after the expiration of the
473 thirty-six-month period.

474 (x) The department may issue a certificate of need for

475 the new construction of a skilled nursing facility in Leake
476 County, provided that the recipient of the certificate of need
477 agrees in writing that the skilled nursing facility will not at
478 any time participate in the Medicaid program (Section 43-13-101 et
479 seq.) or admit or keep any patients in the skilled nursing
480 facility who are participating in the Medicaid program. This
481 written agreement by the recipient of the certificate of need
482 shall be fully binding on any subsequent owner of the skilled
483 nursing facility, if the ownership of the facility is transferred
484 at any time after the issuance of the certificate of need.
485 Agreement that the skilled nursing facility will not participate
486 in the Medicaid program shall be a condition of the issuance of a
487 certificate of need to any person under this paragraph (x), and if
488 such skilled nursing facility at any time after the issuance of
489 the certificate of need, regardless of the ownership of the
490 facility, participates in the Medicaid program or admits or keeps
491 any patients in the facility who are participating in the Medicaid
492 program, the State Department of Health shall revoke the
493 certificate of need, if it is still outstanding, and shall deny or
494 revoke the license of the skilled nursing facility, at the time
495 that the department determines, after a hearing complying with due
496 process, that the facility has failed to comply with any of the
497 conditions upon which the certificate of need was issued, as
498 provided in this paragraph and in the written agreement by the
499 recipient of the certificate of need. The provision of Section
500 43-7-193(1) regarding substantial compliance of the projection of
501 need as reported in the current State Health Plan is waived for
502 the purposes of this paragraph. The total number of nursing
503 facility beds that may be authorized by any certificate of need
504 issued under this paragraph (x) shall not exceed sixty (60) beds.
505 If the skilled nursing facility authorized by the certificate of
506 need issued under this paragraph is not constructed and fully
507 operational within eighteen (18) months after July 1, 1994, the
508 State Department of Health, after a hearing complying with due

509 process, shall revoke the certificate of need, if it is still
510 outstanding, and shall not issue a license for the skilled nursing
511 facility at any time after the expiration of the eighteen-month
512 period.

513 (y) The department may issue a certificate of need in
514 Jones County for making additions to or expansion or replacement
515 of an existing forty-bed facility in order to increase the number
516 of its beds to not more than sixty (60) beds. For the purposes of
517 this paragraph, the provision of Section 41-7-193(1) requiring
518 substantial compliance with the projection of need as reported in
519 the current State Health Plan is waived. The total number of
520 nursing home beds that may be authorized by any certificate of
521 need issued under this paragraph shall not exceed twenty (20)
522 beds.

523 (z) The department may issue certificates of need to
524 allow any existing freestanding long-term care facility in
525 Tishomingo County and Hancock County that on July 1, 1995, is
526 licensed with fewer than sixty (60) beds to increase the number of
527 its beds to not more than sixty (60) beds, provided that the
528 recipient of the certificate of need agrees in writing that none
529 of the additional beds authorized by this paragraph (z) at the
530 nursing facility will be certified for participation in the
531 Medicaid program (Section 43-13-101 et seq.), and that no claim
532 will be submitted for Medicaid reimbursement in the nursing
533 facility for a number of patients in the nursing facility in any
534 day that is greater than the number of licensed beds in the
535 facility on July 1, 1995. This written agreement by the recipient
536 of the certificate of need shall be a condition of the issuance of
537 the certificate of need under this paragraph, and the agreement
538 shall be fully binding on any subsequent owner of the nursing
539 facility if the ownership of the nursing facility is transferred
540 at any time after the issuance of the certificate of need. After
541 this agreement is executed, the Division of Medicaid and the State
542 Department of Health shall not certify more beds in the nursing

543 facility for participation in the Medicaid program than the number
544 of licensed beds in the facility on July 1, 1995. If the nursing
545 facility violates the terms of the written agreement by admitting
546 or keeping in the nursing facility on a regular or continuing
547 basis a number of patients who are participating in the Medicaid
548 program that is greater than the number of licensed beds in the
549 facility on July 1, 1995, the State Department of Health shall
550 revoke the license of the nursing facility, at the time that the
551 department determines, after a hearing complying with due process,
552 that the nursing facility has violated the condition upon which
553 the certificate of need was issued, as provided in this paragraph
554 and in the written agreement. For the purposes of this paragraph
555 (z), the provision of Section 41-7-193(1) requiring substantial
556 compliance with the projection of need as reported in the current
557 State Health Plan is waived.

558 (aa) The department may issue a certificate of need for
559 the construction of a nursing facility at a continuing care
560 retirement community in Lowndes County, provided that the
561 recipient of the certificate of need agrees in writing that the
562 nursing facility will not at any time participate in the Medicaid
563 program (Section 43-13-101 et seq.) or admit or keep any patients
564 in the nursing facility who are participating in the Medicaid
565 program. This written agreement by the recipient of the
566 certificate of need shall be fully binding on any subsequent owner
567 of the nursing facility, if the ownership of the facility is
568 transferred at any time after the issuance of the certificate of
569 need. Agreement that the nursing facility will not participate in
570 the Medicaid program shall be a condition of the issuance of a
571 certificate of need to any person under this paragraph (aa), and
572 if such nursing facility at any time after the issuance of the
573 certificate of need, regardless of the ownership of the facility,
574 participates in the Medicaid program or admits or keeps any
575 patients in the facility who are participating in the Medicaid
576 program, the State Department of Health shall revoke the

577 certificate of need, if it is still outstanding, and shall deny or
578 revoke the license of the nursing facility, at the time that the
579 department determines, after a hearing complying with due process,
580 that the facility has failed to comply with any of the conditions
581 upon which the certificate of need was issued, as provided in this
582 paragraph and in the written agreement by the recipient of the
583 certificate of need. The total number of beds that may be
584 authorized under the authority of this paragraph (aa) shall not
585 exceed sixty (60) beds.

586 (bb) Provided that funds are specifically appropriated
587 therefor by the Legislature, the department may issue a
588 certificate of need to a rehabilitation hospital in Hinds County
589 for the construction of a sixty-bed long-term care nursing
590 facility dedicated to the care and treatment of persons with
591 severe disabilities including persons with spinal cord and
592 closed-head injuries and ventilator-dependent patients. The
593 provision of Section 41-7-193(1) regarding substantial compliance
594 with projection of need as reported in the current State Health
595 Plan is hereby waived for the purpose of this paragraph.

596 (cc) The State Department of Health may issue a
597 certificate of need to a county-owned hospital in the Second
598 Judicial District of Panola County for the conversion of not more
599 than seventy-two (72) hospital beds to nursing facility beds,
600 provided that the recipient of the certificate of need agrees in
601 writing that none of the beds at the nursing facility will be
602 certified for participation in the Medicaid program (Section
603 43-13-101 et seq.), and that no claim will be submitted for
604 Medicaid reimbursement in the nursing facility in any day or for
605 any patient in the nursing facility. This written agreement by
606 the recipient of the certificate of need shall be a condition of
607 the issuance of the certificate of need under this paragraph, and
608 the agreement shall be fully binding on any subsequent owner of
609 the nursing facility if the ownership of the nursing facility is
610 transferred at any time after the issuance of the certificate of

611 need. After this written agreement is executed, the Division of
612 Medicaid and the State Department of Health shall not certify any
613 of the beds in the nursing facility for participation in the
614 Medicaid program. If the nursing facility violates the terms of
615 the written agreement by admitting or keeping in the nursing
616 facility on a regular or continuing basis any patients who are
617 participating in the Medicaid program, the State Department of
618 Health shall revoke the license of the nursing facility, at the
619 time that the department determines, after a hearing complying
620 with due process, that the nursing facility has violated the
621 condition upon which the certificate of need was issued, as
622 provided in this paragraph and in the written agreement. If the
623 certificate of need authorized under this paragraph is not issued
624 within twelve (12) months after July 1, 1998, the department shall
625 deny the application for the certificate of need and shall not
626 issue the certificate of need at any time after the twelve-month
627 period, unless the issuance is contested. If the certificate of
628 need is issued and substantial construction of the nursing
629 facility beds has not commenced within eighteen (18) months after
630 July 1, 1998, the State Department of Health, after a hearing
631 complying with due process, shall revoke the certificate of need
632 if it is still outstanding, and the department shall not issue a
633 license for the nursing facility at any time after the
634 eighteen-month period. Provided, however, that if the issuance of
635 the certificate of need is contested, the department shall require
636 substantial construction of the nursing facility beds within six
637 (6) months after final adjudication on the issuance of the
638 certificate of need.

639 (dd) The department may issue a certificate of need for
640 the new construction, addition or conversion of skilled nursing
641 facility beds in Madison County, provided that the recipient of
642 the certificate of need agrees in writing that the skilled nursing
643 facility will not at any time participate in the Medicaid program
644 (Section 43-13-101 et seq.) or admit or keep any patients in the

645 skilled nursing facility who are participating in the Medicaid
646 program. This written agreement by the recipient of the
647 certificate of need shall be fully binding on any subsequent owner
648 of the skilled nursing facility, if the ownership of the facility
649 is transferred at any time after the issuance of the certificate
650 of need. Agreement that the skilled nursing facility will not
651 participate in the Medicaid program shall be a condition of the
652 issuance of a certificate of need to any person under this
653 paragraph (dd), and if such skilled nursing facility at any time
654 after the issuance of the certificate of need, regardless of the
655 ownership of the facility, participates in the Medicaid program or
656 admits or keeps any patients in the facility who are participating
657 in the Medicaid program, the State Department of Health shall
658 revoke the certificate of need, if it is still outstanding, and
659 shall deny or revoke the license of the skilled nursing facility,
660 at the time that the department determines, after a hearing
661 complying with due process, that the facility has failed to comply
662 with any of the conditions upon which the certificate of need was
663 issued, as provided in this paragraph and in the written agreement
664 by the recipient of the certificate of need. The total number of
665 nursing facility beds that may be authorized by any certificate of
666 need issued under this paragraph (dd) shall not exceed sixty (60)
667 beds. If the certificate of need authorized under this paragraph
668 is not issued within twelve (12) months after July 1, 1998, the
669 department shall deny the application for the certificate of need
670 and shall not issue the certificate of need at any time after the
671 twelve-month period, unless the issuance is contested. If the
672 certificate of need is issued and substantial construction of the
673 nursing facility beds has not commenced within eighteen (18)
674 months after July 1, 1998, the State Department of Health, after a
675 hearing complying with due process, shall revoke the certificate
676 of need if it is still outstanding, and the department shall not
677 issue a license for the nursing facility at any time after the
678 eighteen-month period. Provided, however, that if the issuance of

679 the certificate of need is contested, the department shall require
680 substantial construction of the nursing facility beds within six
681 (6) months after final adjudication on the issuance of the
682 certificate of need.

683 (ee) The department may issue a certificate of need for
684 the new construction, addition or conversion of skilled nursing
685 facility beds in Leake County, provided that the recipient of the
686 certificate of need agrees in writing that the skilled nursing
687 facility will not at any time participate in the Medicaid program
688 (Section 43-13-101 et seq.) or admit or keep any patients in the
689 skilled nursing facility who are participating in the Medicaid
690 program. This written agreement by the recipient of the
691 certificate of need shall be fully binding on any subsequent owner
692 of the skilled nursing facility, if the ownership of the facility
693 is transferred at any time after the issuance of the certificate
694 of need. Agreement that the skilled nursing facility will not
695 participate in the Medicaid program shall be a condition of the
696 issuance of a certificate of need to any person under this
697 paragraph (ee), and if such skilled nursing facility at any time
698 after the issuance of the certificate of need, regardless of the
699 ownership of the facility, participates in the Medicaid program or
700 admits or keeps any patients in the facility who are participating
701 in the Medicaid program, the State Department of Health shall
702 revoke the certificate of need, if it is still outstanding, and
703 shall deny or revoke the license of the skilled nursing facility,
704 at the time that the department determines, after a hearing
705 complying with due process, that the facility has failed to comply
706 with any of the conditions upon which the certificate of need was
707 issued, as provided in this paragraph and in the written agreement
708 by the recipient of the certificate of need. The total number of
709 nursing facility beds that may be authorized by any certificate of
710 need issued under this paragraph (ee) shall not exceed sixty (60)
711 beds. If the certificate of need authorized under this paragraph
712 is not issued within twelve (12) months after July 1, 1998, the

713 department shall deny the application for the certificate of need
714 and shall not issue the certificate of need at any time after the
715 twelve-month period, unless the issuance is contested. If the
716 certificate of need is issued and substantial construction of the
717 nursing facility beds has not commenced within eighteen (18)
718 months after July 1, 1998, the State Department of Health, after a
719 hearing complying with due process, shall revoke the certificate
720 of need if it is still outstanding, and the department shall not
721 issue a license for the nursing facility at any time after the
722 eighteen-month period. Provided, however, that if the issuance of
723 the certificate of need is contested, the department shall require
724 substantial construction of the nursing facility beds within six
725 (6) months after final adjudication on the issuance of the
726 certificate of need.

727 (ff) The department may issue a certificate of need for
728 the construction of a municipally-owned nursing facility within
729 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
730 beds, provided that the recipient of the certificate of need
731 agrees in writing that the skilled nursing facility will not at
732 any time participate in the Medicaid program (Section 43-13-101 et
733 seq.) or admit or keep any patients in the skilled nursing
734 facility who are participating in the Medicaid program. This
735 written agreement by the recipient of the certificate of need
736 shall be fully binding on any subsequent owner of the skilled
737 nursing facility, if the ownership of the facility is transferred
738 at any time after the issuance of the certificate of need.
739 Agreement that the skilled nursing facility will not participate
740 in the Medicaid program shall be a condition of the issuance of a
741 certificate of need to any person under this paragraph (ff), and
742 if such skilled nursing facility at any time after the issuance of
743 the certificate of need, regardless of the ownership of the
744 facility, participates in the Medicaid program or admits or keeps
745 any patients in the facility who are participating in the Medicaid
746 program, the State Department of Health shall revoke the

747 certificate of need, if it is still outstanding, and shall deny or
748 revoke the license of the skilled nursing facility, at the time
749 that the department determines, after a hearing complying with due
750 process, that the facility has failed to comply with any of the
751 conditions upon which the certificate of need was issued, as
752 provided in this paragraph and in the written agreement by the
753 recipient of the certificate of need. The provision of Section
754 43-7-193(1) regarding substantial compliance of the projection of
755 need as reported in the current State Health Plan is waived for
756 the purposes of this paragraph. If the certificate of need
757 authorized under this paragraph is not issued within twelve (12)
758 months after July 1, 1998, the department shall deny the
759 application for the certificate of need and shall not issue the
760 certificate of need at any time after the twelve-month period,
761 unless the issuance is contested. If the certificate of need is
762 issued and substantial construction of the nursing facility beds
763 has not commenced within eighteen (18) months after July 1, 1998,
764 the State Department of Health, after a hearing complying with due
765 process, shall revoke the certificate of need if it is still
766 outstanding, and the department shall not issue a license for the
767 nursing facility at any time after the eighteen-month period.
768 Provided, however, that if the issuance of the certificate of need
769 is contested, the department shall require substantial
770 construction of the nursing facility beds within six (6) months
771 after final adjudication on the issuance of the certificate of
772 need.

773 (3) If the holder of the certificate of need that was issued
774 before January 1, 1990, for the construction of a nursing home in
775 Claiborne County has not substantially undertaken commencement of
776 construction by completing site works and pouring foundations and
777 the floor slab of a nursing home in Claiborne County before May 1,
778 1990, as determined by the department, then the department shall
779 transfer such certificate of need to the Board of Supervisors of
780 Claiborne County upon the effective date of this subsection (3).

781 If the certificate of need is transferred to the board of
782 supervisors, it shall be valid for a period of twelve (12) months
783 and shall authorize the construction of a sixty-bed nursing home
784 on county-owned property or the conversion of vacant hospital beds
785 in the county hospital not to exceed sixty (60) beds.

786 (4) The State Department of Health may grant approval for
787 and issue certificates of need to any person proposing the new
788 construction of, addition to, conversion of beds of or expansion
789 of any health care facility defined in subparagraph (x)
790 (psychiatric residential treatment facility) of Section
791 41-7-173(h). The total number of beds which may be authorized by
792 such certificates of need shall not exceed two hundred
793 seventy-four (274) beds for the entire state.

794 (a) Of the total number of beds authorized under this
795 subsection, the department shall issue a certificate of need to a
796 privately owned psychiatric residential treatment facility in
797 Simpson County for the conversion of sixteen (16) intermediate
798 care facility for the mentally retarded (ICF-MR) beds to
799 psychiatric residential treatment facility beds, provided that
800 facility agrees in writing that the facility shall give priority
801 for the use of those sixteen (16) beds to Mississippi residents
802 who are presently being treated in out-of-state facilities.

803 (b) Of the total number of beds authorized under this
804 subsection, the department may issue a certificate or certificates
805 of need for the construction or expansion of psychiatric
806 residential treatment facility beds or the conversion of other
807 beds to psychiatric residential treatment facility beds in Warren
808 County, not to exceed sixty (60) psychiatric residential treatment
809 facility beds, provided that the facility agrees in writing that
810 no more than thirty (30) of the beds at the psychiatric
811 residential treatment facility will be certified for participation
812 in the Medicaid program (Section 43-13-101 et seq.) for the use of
813 any patients other than those who are participating only in the
814 Medicaid program of another state, and that no claim will be

815 submitted to the Division of Medicaid for Medicaid reimbursement
816 for more than thirty (30) patients in the psychiatric residential
817 treatment facility in any day or for any patient in the
818 psychiatric residential treatment facility who is in a bed that is
819 not Medicaid-certified. This written agreement by the recipient
820 of the certificate of need shall be a condition of the issuance of
821 the certificate of need under this paragraph, and the agreement
822 shall be fully binding on any subsequent owner of the psychiatric
823 residential treatment facility if the ownership of the facility is
824 transferred at any time after the issuance of the certificate of
825 need. After this written agreement is executed, the Division of
826 Medicaid and the State Department of Health shall not certify more
827 than thirty (30) of the beds in the psychiatric residential
828 treatment facility for participation in the Medicaid program for
829 the use of any patients other than those who are participating
830 only in the Medicaid program of another state. If the psychiatric
831 residential treatment facility violates the terms of the written
832 agreement by admitting or keeping in the facility on a regular or
833 continuing basis more than thirty (30) patients who are
834 participating in the Mississippi Medicaid program, the State
835 Department of Health shall revoke the license of the facility, at
836 the time that the department determines, after a hearing complying
837 with due process, that the facility has violated the condition
838 upon which the certificate of need was issued, as provided in this
839 paragraph and in the written agreement.

840 (c) Of the total number of beds authorized under this
841 subsection, the department shall issue a certificate of need to a
842 hospital currently operating Medicaid-certified acute psychiatric
843 beds for adolescents in DeSoto County, for the establishment of a
844 forty-bed psychiatric residential treatment facility in DeSoto
845 County, provided that the hospital agrees in writing (i) that the
846 hospital shall give priority for the use of those forty (40) beds
847 to Mississippi residents who are presently being treated in
848 out-of-state facilities, and (ii) that no more than fifteen (15)

849 of the beds at the psychiatric residential treatment facility will
850 be certified for participation in the Medicaid program (Section
851 43-13-101 et seq.), and that no claim will be submitted for
852 Medicaid reimbursement for more than fifteen (15) patients in the
853 psychiatric residential treatment facility in any day or for any
854 patient in the psychiatric residential treatment facility who is
855 in a bed that is not Medicaid-certified. This written agreement
856 by the recipient of the certificate of need shall be a condition
857 of the issuance of the certificate of need under this paragraph,
858 and the agreement shall be fully binding on any subsequent owner
859 of the psychiatric residential treatment facility if the ownership
860 of the facility is transferred at any time after the issuance of
861 the certificate of need. After this written agreement is
862 executed, the Division of Medicaid and the State Department of
863 Health shall not certify more than fifteen (15) of the beds in the
864 psychiatric residential treatment facility for participation in
865 the Medicaid program. If the psychiatric residential treatment
866 facility violates the terms of the written agreement by admitting
867 or keeping in the facility on a regular or continuing basis more
868 than fifteen (15) patients who are participating in the Medicaid
869 program, the State Department of Health shall revoke the license
870 of the facility, at the time that the department determines, after
871 a hearing complying with due process, that the facility has
872 violated the condition upon which the certificate of need was
873 issued, as provided in this paragraph and in the written
874 agreement.

875 (d) Of the total number of beds authorized under this
876 subsection, the department may issue a certificate or certificates
877 of need for the construction or expansion of psychiatric
878 residential treatment facility beds or the conversion of other
879 beds to psychiatric treatment facility beds, not to exceed thirty
880 (30) psychiatric residential treatment facility beds, in either
881 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
882 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

883 (e) Of the total number of beds authorized under this
884 subsection (4) the department shall issue a certificate of need to
885 a privately owned, nonprofit psychiatric residential treatment
886 facility in Hinds County for an eight-bed expansion of the
887 facility, provided that the facility agrees in writing that the
888 facility shall give priority for the use of those eight (8) beds
889 to Mississippi residents who are presently being treated in
890 out-of-state facilities.

891 (5) (a) From and after July 1, 1993, the department shall
892 not issue a certificate of need to any person for the new
893 construction of any hospital, psychiatric hospital or chemical
894 dependency hospital that will contain any child/adolescent
895 psychiatric or child/adolescent chemical dependency beds, or for
896 the conversion of any other health care facility to a hospital,
897 psychiatric hospital or chemical dependency hospital that will
898 contain any child/adolescent psychiatric or child/adolescent
899 chemical dependency beds, or for the addition of any
900 child/adolescent psychiatric or child/adolescent chemical
901 dependency beds in any hospital, psychiatric hospital or chemical
902 dependency hospital, or for the conversion of any beds of another
903 category in any hospital, psychiatric hospital or chemical
904 dependency hospital to child/adolescent psychiatric or
905 child/adolescent chemical dependency beds, except as hereinafter
906 authorized:

907 (i) The department may issue certificates of need
908 to any person for any purpose described in this subsection,
909 provided that the hospital, psychiatric hospital or chemical
910 dependency hospital does not participate in the Medicaid program
911 (Section 43-13-101 et seq.) at the time of the application for the
912 certificate of need and the owner of the hospital, psychiatric
913 hospital or chemical dependency hospital agrees in writing that
914 the hospital, psychiatric hospital or chemical dependency hospital
915 will not at any time participate in the Medicaid program or admit
916 or keep any patients who are participating in the Medicaid program

917 in the hospital, psychiatric hospital or chemical dependency
918 hospital. This written agreement by the recipient of the
919 certificate of need shall be fully binding on any subsequent owner
920 of the hospital, psychiatric hospital or chemical dependency
921 hospital, if the ownership of the facility is transferred at any
922 time after the issuance of the certificate of need. Agreement
923 that the hospital, psychiatric hospital or chemical dependency
924 hospital will not participate in the Medicaid program shall be a
925 condition of the issuance of a certificate of need to any person
926 under this subparagraph (a)(i), and if such hospital, psychiatric
927 hospital or chemical dependency hospital at any time after the
928 issuance of the certificate of need, regardless of the ownership
929 of the facility, participates in the Medicaid program or admits or
930 keeps any patients in the hospital, psychiatric hospital or
931 chemical dependency hospital who are participating in the Medicaid
932 program, the State Department of Health shall revoke the
933 certificate of need, if it is still outstanding, and shall deny or
934 revoke the license of the hospital, psychiatric hospital or
935 chemical dependency hospital, at the time that the department
936 determines, after a hearing complying with due process, that the
937 hospital, psychiatric hospital or chemical dependency hospital has
938 failed to comply with any of the conditions upon which the
939 certificate of need was issued, as provided in this subparagraph
940 and in the written agreement by the recipient of the certificate
941 of need.

942 (ii) The department may issue a certificate of
943 need for the conversion of existing beds in a county hospital in
944 Choctaw County from acute care beds to child/adolescent chemical
945 dependency beds. For purposes of this paragraph, the provisions
946 of Section 41-7-193(1) requiring substantial compliance with the
947 projection of need as reported in the current State Health Plan is
948 waived. The total number of beds that may be authorized under
949 authority of this paragraph shall not exceed twenty (20) beds.

950 There shall be no prohibition or restrictions on participation in

951 the Medicaid program (Section 43-13-101 et seq.) for the hospital
952 receiving the certificate of need authorized under this
953 subparagraph (a)(ii) or for the beds converted pursuant to the
954 authority of that certificate of need.

955 (iii) The department may issue a certificate or
956 certificates of need for the construction or expansion of
957 child/adolescent psychiatric beds or the conversion of other beds
958 to child/adolescent psychiatric beds in Warren County. For
959 purposes of this subparagraph, the provisions of Section
960 41-7-193(1) requiring substantial compliance with the projection
961 of need as reported in the current State Health Plan are waived.
962 The total number of beds that may be authorized under the
963 authority of this subparagraph shall not exceed twenty (20) beds.

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

969 (iv) The department shall issue a certificate of
970 need to the Region 7 Mental Health/Retardation Commission for the
971 construction or expansion of child/adolescent psychiatric beds or
972 the conversion of other beds to child/adolescent psychiatric beds
973 in any of the counties served by the commission. For purposes of
974 this subparagraph, the provisions of Section 41-7-193(1) requiring
975 substantial compliance with the projection of need as reported in
976 the current State Health Plan is waived. The total number of beds
977 that may be authorized under the authority of this subparagraph
978 shall not exceed twenty (20) beds. There shall be no prohibition
979 or restrictions on participation in the Medicaid program (Section
980 43-13-101 et seq.) for the person receiving the certificate of
981 need authorized under this subparagraph (a)(iv) or for the beds
982 converted pursuant to the authority of that certificate of need.

983 (v) The department may issue a certificate of need
984 to any county hospital located in Leflore County for the

985 construction or expansion of adult psychiatric beds or the
986 conversion of other beds to adult psychiatric beds, not to exceed
987 twenty (20) beds, provided that the recipient of the certificate
988 of need agrees in writing that the adult psychiatric beds will not
989 at any time be certified for participation in the Medicaid program
990 and that the hospital will not admit or keep any patients who are
991 participating in the Medicaid program in any of such adult
992 psychiatric beds. This written agreement by the recipient of the
993 certificate of need shall be fully binding on any subsequent owner
994 of the hospital if the ownership of the hospital is transferred at
995 any time after the issuance of the certificate of need. Agreement
996 that the adult psychiatric beds will not be certified for
997 participation in the Medicaid program shall be a condition of the
998 issuance of a certificate of need to any person under this
999 subparagraph (a)(v), and if such hospital at any time after the
1000 issuance of the certificate of need, regardless of the ownership
1001 of the hospital, has any of such adult psychiatric beds certified
1002 for participation in the Medicaid program or admits or keeps any
1003 Medicaid patients in such adult psychiatric beds, the State
1004 Department of Health shall revoke the certificate of need, if it
1005 is still outstanding, and shall deny or revoke the license of the
1006 hospital at the time that the department determines, after a
1007 hearing complying with due process, that the hospital has failed
1008 to comply with any of the conditions upon which the certificate of
1009 need was issued, as provided in this subparagraph and in the
1010 written agreement by the recipient of the certificate of need.

1011 (b) From and after July 1, 1990, no hospital,
1012 psychiatric hospital or chemical dependency hospital shall be
1013 authorized to add any child/adolescent psychiatric or
1014 child/adolescent chemical dependency beds or convert any beds of
1015 another category to child/adolescent psychiatric or
1016 child/adolescent chemical dependency beds without a certificate of
1017 need under the authority of subsection (1)(c) of this section.

1018 (6) The department may issue a certificate of need to a

1019 county hospital in Winston County for the conversion of fifteen
1020 (15) acute care beds to geriatric psychiatric care beds.

1021 (7) The State Department of Health shall issue a certificate
1022 of need to a Mississippi corporation qualified to manage a
1023 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1024 Harrison County, not to exceed eighty (80) beds, including any
1025 necessary renovation or construction required for licensure and
1026 certification, provided that the recipient of the certificate of
1027 need agrees in writing that the long-term care hospital will not
1028 at any time participate in the Medicaid program (Section 43-13-101
1029 et seq.) or admit or keep any patients in the long-term care
1030 hospital who are participating in the Medicaid program. This
1031 written agreement by the recipient of the certificate of need
1032 shall be fully binding on any subsequent owner of the long-term
1033 care hospital, if the ownership of the facility is transferred at
1034 any time after the issuance of the certificate of need. Agreement
1035 that the long-term care hospital will not participate in the
1036 Medicaid program shall be a condition of the issuance of a
1037 certificate of need to any person under this subsection (7), and
1038 if such long-term care hospital at any time after the issuance of
1039 the certificate of need, regardless of the ownership of the
1040 facility, participates in the Medicaid program or admits or keeps
1041 any patients in the facility who are participating in the Medicaid
1042 program, the State Department of Health shall revoke the
1043 certificate of need, if it is still outstanding, and shall deny or
1044 revoke the license of the long-term care hospital, at the time
1045 that the department determines, after a hearing complying with due
1046 process, that the facility has failed to comply with any of the
1047 conditions upon which the certificate of need was issued, as
1048 provided in this paragraph and in the written agreement by the
1049 recipient of the certificate of need. For purposes of this
1050 paragraph, the provision of Section 41-7-193(1) requiring
1051 substantial compliance with the projection of need as reported in
1052 the current State Health Plan is hereby waived.

1053 (8) The State Department of Health may issue a certificate
1054 of need to any hospital in the state to utilize a portion of its
1055 beds for the "swing-bed" concept. Any such hospital must be in
1056 conformance with the federal regulations regarding such swing-bed
1057 concept at the time it submits its application for a certificate
1058 of need to the State Department of Health, except that such
1059 hospital may have more licensed beds or a higher average daily
1060 census (ADC) than the maximum number specified in federal
1061 regulations for participation in the swing-bed program. Any
1062 hospital meeting all federal requirements for participation in the
1063 swing-bed program which receives such certificate of need shall
1064 render services provided under the swing-bed concept to any
1065 patient eligible for Medicare (Title XVIII of the Social Security
1066 Act) who is certified by a physician to be in need of such
1067 services, and no such hospital shall permit any patient who is
1068 eligible for both Medicaid and Medicare or eligible only for
1069 Medicaid to stay in the swing beds of the hospital for more than
1070 thirty (30) days per admission unless the hospital receives prior
1071 approval for such patient from the Division of Medicaid, Office of
1072 the Governor. Any hospital having more licensed beds or a higher
1073 average daily census (ADC) than the maximum number specified in
1074 federal regulations for participation in the swing-bed program
1075 which receives such certificate of need shall develop a procedure
1076 to insure that before a patient is allowed to stay in the swing
1077 beds of the hospital, there are no vacant nursing home beds
1078 available for that patient located within a fifty-mile radius of
1079 the hospital. When any such hospital has a patient staying in the
1080 swing beds of the hospital and the hospital receives notice from a
1081 nursing home located within such radius that there is a vacant bed
1082 available for that patient, the hospital shall transfer the
1083 patient to the nursing home within a reasonable time after receipt
1084 of the notice. Any hospital which is subject to the requirements
1085 of the two (2) preceding sentences of this paragraph may be
1086 suspended from participation in the swing-bed program for a

1087 reasonable period of time by the State Department of Health if the
1088 department, after a hearing complying with due process, determines
1089 that the hospital has failed to comply with any of those
1090 requirements.

1091 (9) The Department of Health shall not grant approval for or
1092 issue a certificate of need to any person proposing the new
1093 construction of, addition to or expansion of a health care
1094 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1095 (10) The Department of Health shall not grant approval for
1096 or issue a certificate of need to any person proposing the
1097 establishment of, or expansion of the currently approved territory
1098 of, or the contracting to establish a home office, subunit or
1099 branch office within the space operated as a health care facility
1100 as defined in Section 41-7-173(h)(i) through (viii) by a health
1101 care facility as defined in subparagraph (ix) of Section
1102 41-7-173(h).

1103 (11) Health care facilities owned and/or operated by the
1104 state or its agencies are exempt from the restraints in this
1105 section against issuance of a certificate of need if such addition
1106 or expansion consists of repairing or renovation necessary to
1107 comply with the state licensure law. This exception shall not
1108 apply to the new construction of any building by such state
1109 facility. This exception shall not apply to any health care
1110 facilities owned and/or operated by counties, municipalities,
1111 districts, unincorporated areas, other defined persons, or any
1112 combination thereof.

1113 (12) The new construction, renovation or expansion of or
1114 addition to any health care facility defined in subparagraph (ii)
1115 (psychiatric hospital), subparagraph (iv) (skilled nursing
1116 facility), subparagraph (vi) (intermediate care facility),
1117 subparagraph (viii) (intermediate care facility for the mentally
1118 retarded) and subparagraph (x) (psychiatric residential treatment
1119 facility) of Section 41-7-173(h) which is owned by the State of
1120 Mississippi and under the direction and control of the State

1121 Department of Mental Health, and the addition of new beds or the
1122 conversion of beds from one category to another in any such
1123 defined health care facility which is owned by the State of
1124 Mississippi and under the direction and control of the State
1125 Department of Mental Health, shall not require the issuance of a
1126 certificate of need under Section 41-7-171 et seq.,
1127 notwithstanding any provision in Section 41-7-171 et seq. to the
1128 contrary.

1129 (13) The new construction, renovation or expansion of or
1130 addition to any veterans homes or domiciliaries for eligible
1131 veterans of the State of Mississippi as authorized under Section
1132 35-1-19 shall not require the issuance of a certificate of need,
1133 notwithstanding any provision in Section 41-7-171 et seq. to the
1134 contrary.

1135 (14) The new construction of a nursing facility or nursing
1136 facility beds or the conversion of other beds to nursing facility
1137 beds shall not require the issuance of a certificate of need,
1138 notwithstanding any provision in Section 41-7-171 et seq. to the
1139 contrary, if the conditions of this subsection are met.

1140 (a) Before any construction or conversion may be
1141 undertaken without a certificate of need, the owner of the nursing
1142 facility, in the case of an existing facility, or the applicant to
1143 construct a nursing facility, in the case of new construction,
1144 first must file a written notice of intent and sign a written
1145 agreement with the State Department of Health that the entire
1146 nursing facility will not at any time participate in or have any
1147 beds certified for participation in the Medicaid program (Section
1148 43-13-101 et seq.), will not admit or keep any patients in the
1149 nursing facility who are participating in the Medicaid program,
1150 and will not submit any claim for Medicaid reimbursement for any
1151 patient in the facility. This written agreement by the owner or
1152 applicant shall be a condition of exercising the authority under
1153 this subsection without a certificate of need, and the agreement
1154 shall be fully binding on any subsequent owner of the nursing

1155 facility if the ownership of the facility is transferred at any
1156 time after the agreement is signed. After the written agreement
1157 is signed, the Division of Medicaid and the State Department of
1158 Health shall not certify any beds in the nursing facility for
1159 participation in the Medicaid program. If the nursing facility
1160 violates the terms of the written agreement by participating in
1161 the Medicaid program, having any beds certified for participation
1162 in the Medicaid program, admitting or keeping any patient in the
1163 facility who is participating in the Medicaid program, or
1164 submitting any claim for Medicaid reimbursement for any patient in
1165 the facility, the State Department of Health shall revoke the
1166 license of the nursing facility at the time that the department
1167 determines, after a hearing complying with due process, that the
1168 facility has violated the terms of the written agreement.

1169 (b) For the purposes of this subsection, participation
1170 in the Medicaid program by a nursing facility includes Medicaid
1171 reimbursement of coinsurance and deductibles for recipients who
1172 are qualified Medicare beneficiaries and/or those who are dually
1173 eligible. Any nursing facility exercising the authority under
1174 this subsection may not bill or submit a claim to the Division of
1175 Medicaid for services to qualified Medicare beneficiaries and/or
1176 those who are dually eligible.

1177 (c) The new construction of a nursing facility or
1178 nursing facility beds or the conversion of other beds to nursing
1179 facility beds described in this section must be either a part of a
1180 completely new continuing care retirement community, as described
1181 in the latest edition of the Mississippi State Health Plan, or an
1182 addition to existing personal care and independent living
1183 components, and so that the completed project will be a continuing
1184 care retirement community, containing (i) independent living
1185 accommodations, (ii) personal care beds, and (iii) the nursing
1186 home facility beds. The three (3) components must be located on a
1187 single site and be operated as one (1) inseparable facility. The
1188 nursing facility component must contain a minimum of thirty (30)

1189 beds. Any nursing facility beds authorized by this section will
1190 not be counted against the bed need set forth in the State Health
1191 Plan, as identified in Section 41-7-171, et seq.

1192 This subsection (14) shall stand repealed from and after July
1193 1, 2001.

1194 SECTION 2. This act shall take effect and be in force from
1195 and after its passage.