

By: Senator(s) Bean, Burton, Gollott, Woodfield, Gordon, Thames, Carlton, Little, Browning, Walls, White (29th), Canon, Harden, Stogner, Dickerson, Minor, Carter, Robertson, Smith, Harvey, Ferris, Hall, Farris, Hawks, Hamilton, Dearing, Cuevas, Scoper, Mettetal, Turner, Ross, Moffatt, Furniss, Jackson, Horhn, Johnson (19th)

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2679
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 43-13-117, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A NURSING FACILITY PREADMISSION SCREENING PROGRAM FOR
3 MEDICAID BENEFICIARIES AND APPLICANTS, TO PROVIDE FOR A
4 PREADMISSION SCREENING TEAM, TO PROVIDE MEDICAID REIMBURSEMENT FOR
5 PREADMISSION SCREENING SERVICES AND TO DELETE THE REQUIREMENT THAT
6 THE DIVISION OF MEDICAID PROVIDE HOME- AND COMMUNITY-BASED
7 SERVICES UNDER A COOPERATIVE AGREEMENT WITH THE DEPARTMENT OF
8 HUMAN SERVICES; TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF
9 1972, TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ISSUE
10 CERTIFICATES OF NEED DURING EACH OF THE NEXT TWO FISCAL YEARS FOR
11 THE CONSTRUCTION, EXPANSION OR CONVERSION OF NURSING FACILITY BEDS
12 IN EACH COUNTY OF THE STATE HAVING AN ADDITIONAL NURSING BED NEED
13 OF 50 BEDS OR MORE; TO PROVIDE THAT SUCH CERTIFICATES OF NEED
14 SHALL BE ISSUED IN PRIORITY ORDER BEGINNING WITH THE COUNTIES
15 HAVING THE HIGHEST NEED; TO PROVIDE CERTAIN RESTRICTIONS ON THESE
16 CERTIFICATES OF NEED RELATIVE TO PARTICIPATION IN THE MEDICAID
17 PROGRAM; AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 43-13-117, Mississippi Code of 1972, is
20 amended as follows:

21 43-13-117. Medical assistance as authorized by this article
22 shall include payment of part or all of the costs, at the
23 discretion of the division or its successor, with approval of the
24 Governor, of the following types of care and services rendered to
25 eligible applicants who shall have been determined to be eligible
26 for such care and services, within the limits of state
27 appropriations and federal matching funds:

28 (1) Inpatient hospital services.

29 (a) The division shall allow thirty (30) days of
30 inpatient hospital care annually for all Medicaid recipients;
31 however, before any recipient will be allowed more than fifteen
32 (15) days of inpatient hospital care in any one (1) year, he must
33 obtain prior approval therefor from the division. The division
34 shall be authorized to allow unlimited days in disproportionate

35 hospitals as defined by the division for eligible infants under
36 the age of six (6) years.

37 (b) From and after July 1, 1994, the Executive Director
38 of the Division of Medicaid shall amend the Mississippi Title XIX
39 Inpatient Hospital Reimbursement Plan to remove the occupancy rate
40 penalty from the calculation of the Medicaid Capital Cost
41 Component utilized to determine total hospital costs allocated to
42 the Medicaid Program.

43 (2) Outpatient hospital services. Provided that where the
44 same services are reimbursed as clinic services, the division may
45 revise the rate or methodology of outpatient reimbursement to
46 maintain consistency, efficiency, economy and quality of care.

47 (3) Laboratory and X-ray services.

48 (4) Nursing facility services.

49 (a) The division shall make full payment to nursing
50 facilities for each day, not exceeding thirty-six (36) days per
51 year, that a patient is absent from the facility on home leave.
52 However, before payment may be made for more than eighteen (18)
53 home leave days in a year for a patient, the patient must have
54 written authorization from a physician stating that the patient is
55 physically and mentally able to be away from the facility on home
56 leave. Such authorization must be filed with the division before
57 it will be effective and the authorization shall be effective for
58 three (3) months from the date it is received by the division,
59 unless it is revoked earlier by the physician because of a change
60 in the condition of the patient.

61 (b) From and after July 1, 1993, the division shall
62 implement the integrated case-mix payment and quality monitoring
63 system developed pursuant to Section 43-13-122, which includes the
64 fair rental system for property costs and in which recapture of
65 depreciation is eliminated. The division may revise the
66 reimbursement methodology for the case-mix payment system by
67 reducing payment for hospital leave and therapeutic home leave
68 days to the lowest case-mix category for nursing facilities,
69 modifying the current method of scoring residents so that only
70 services provided at the nursing facility are considered in
71 calculating a facility's per diem, and the division may limit
72 administrative and operating costs, but in no case shall these

73 costs be less than one hundred nine percent (109%) of the median
74 administrative and operating costs for each class of facility, not
75 to exceed the median used to calculate the nursing facility
76 reimbursement for Fiscal Year 1996, to be applied uniformly to all
77 long-term care facilities. This paragraph (b) shall stand
78 repealed on July 1, 1997.

79 (c) From and after July 1, 1997, all state-owned
80 nursing facilities shall be reimbursed on a full reasonable costs
81 basis. From and after July 1, 1997, payments by the division to
82 nursing facilities for return on equity capital shall be made at
83 the rate paid under Medicare (Title XVIII of the Social Security
84 Act), but shall be no less than seven and one-half percent (7.5%)
85 nor greater than ten percent (10%).

86 (d) A Review Board for nursing facilities is
87 established to conduct reviews of the Division of Medicaid's
88 decision in the areas set forth below:

89 (i) Review shall be heard in the following areas:

90 (A) Matters relating to cost reports
91 including, but not limited to, allowable costs and cost
92 adjustments resulting from desk reviews and audits.

93 (B) Matters relating to the Minimum Data Set
94 Plus (MDS +) or successor assessment formats including, but not
95 limited to, audits, classifications and submissions.

96 (ii) The Review Board shall be composed of six (6)
97 members, three (3) having expertise in one (1) of the two (2)
98 areas set forth above and three (3) having expertise in the other
99 area set forth above. Each panel of three (3) shall only review
100 appeals arising in its area of expertise. The members shall be
101 appointed as follows:

102 (A) In each of the areas of expertise defined
103 under subparagraphs (i)(A) and (i)(B), the Executive Director of
104 the Division of Medicaid shall appoint one (1) person chosen from
105 the private sector nursing home industry in the state, which may
106 include independent accountants and consultants serving the

107 industry;

108 (B) In each of the areas of expertise defined
109 under subparagraphs (i)(A) and (i)(B), the Executive Director of
110 the Division of Medicaid shall appoint one (1) person who is
111 employed by the state who does not participate directly in desk
112 reviews or audits of nursing facilities in the two (2) areas of
113 review;

114 (C) The two (2) members appointed by the
115 Executive Director of the Division of Medicaid in each area of
116 expertise shall appoint a third member in the same area of
117 expertise.

118 In the event of a conflict of interest on the part of any
119 Review Board members, the Executive Director of the Division of
120 Medicaid or the other two (2) panel members, as applicable, shall
121 appoint a substitute member for conducting a specific review.

122 (iii) The Review Board panels shall have the power
123 to preserve and enforce order during hearings; to issue subpoenas;
124 to administer oaths; to compel attendance and testimony of
125 witnesses; or to compel the production of books, papers, documents
126 and other evidence; or the taking of depositions before any
127 designated individual competent to administer oaths; to examine
128 witnesses; and to do all things conformable to law that may be
129 necessary to enable it effectively to discharge its duties. The
130 Review Board panels may appoint such person or persons as they
131 shall deem proper to execute and return process in connection
132 therewith.

133 (iv) The Review Board shall promulgate, publish
134 and disseminate to nursing facility providers rules of procedure
135 for the efficient conduct of proceedings, subject to the approval
136 of the Executive Director of the Division of Medicaid and in
137 accordance with federal and state administrative hearing laws and
138 regulations.

139 (v) Proceedings of the Review Board shall be of
140 record.

141 (vi) Appeals to the Review Board shall be in
142 writing and shall set out the issues, a statement of alleged facts
143 and reasons supporting the provider's position. Relevant
144 documents may also be attached. The appeal shall be filed within
145 thirty (30) days from the date the provider is notified of the
146 action being appealed or, if informal review procedures are taken,
147 as provided by administrative regulations of the Division of
148 Medicaid, within thirty (30) days after a decision has been
149 rendered through informal hearing procedures.

150 (vii) The provider shall be notified of the
151 hearing date by certified mail within thirty (30) days from the
152 date the Division of Medicaid receives the request for appeal.
153 Notification of the hearing date shall in no event be less than
154 thirty (30) days before the scheduled hearing date. The appeal
155 may be heard on shorter notice by written agreement between the
156 provider and the Division of Medicaid.

157 (viii) Within thirty (30) days from the date of
158 the hearing, the Review Board panel shall render a written
159 recommendation to the Executive Director of the Division of
160 Medicaid setting forth the issues, findings of fact and applicable
161 law, regulations or provisions.

162 (ix) The Executive Director of the Division of
163 Medicaid shall, upon review of the recommendation, the proceedings
164 and the record, prepare a written decision which shall be mailed
165 to the nursing facility provider no later than twenty (20) days
166 after the submission of the recommendation by the panel. The
167 decision of the executive director is final, subject only to
168 judicial review.

169 (x) Appeals from a final decision shall be made to
170 the Chancery Court of Hinds County. The appeal shall be filed
171 with the court within thirty (30) days from the date the decision
172 of the Executive Director of the Division of Medicaid becomes
173 final.

174 (xi) The action of the Division of Medicaid under

175 review shall be stayed until all administrative proceedings have
176 been exhausted.

177 (xii) Appeals by nursing facility providers
178 involving any issues other than those two (2) specified in
179 subparagraphs (i)(A) and (ii)(B) shall be taken in accordance with
180 the administrative hearing procedures established by the Division
181 of Medicaid.

182 (e) The Division of Medicaid shall develop and
183 implement a nursing facility preadmission screening program for
184 Medicaid beneficiaries and applicants. The nursing facility
185 preadmission screening program shall be conducted by a screening
186 team consisting of two (2) members, with a licensed physician
187 available for consultation. Medicaid certified nursing facilities
188 shall provide an individual who applies for admission to the
189 nursing facility or the individual's parent or guardian, if the
190 individual is not competent, a notification in writing on forms
191 prepared by the division of the following:

192 (i) No Medicaid funds shall be paid for nursing
193 facility care for Medicaid beneficiaries admitted to nursing
194 facilities on or after July 1, 1999, who have failed to
195 participate in the nursing facility preadmission screening
196 program.

197 (ii) The nursing facility preadmission screening
198 program consists of an assessment of the applicant's need for care
199 in a nursing facility made by a team of individuals familiar with
200 the needs of individuals seeking admissions to nursing facilities.

201 Placement in a nursing facility may not be denied by the
202 screening team if any of the following conditions exist:

203 (i) Community services that would be more
204 appropriate than care in a nursing facility are not actually
205 available;

206 (ii) The applicant chooses not to receive the
207 appropriate community service.

208 An applicant aggrieved by a determination of the screening

209 team may appeal the determination under rules and procedures
210 adopted by the division.

211 The division shall make full payment for nursing facility
212 preadmission screening team services.

213 The division shall apply for necessary federal waivers to
214 assure that additional services providing alternatives to
215 institutionalization are made available to applicants for nursing
216 facility care.

217 The division shall coordinate pre-admission screening to
218 avoid duplication with hospital discharge planning procedures and
219 with screening by local area agencies on aging.

220 This paragraph (e) shall stand repealed from and after July
221 1, 2001.

222 From and after July 1, 2000, a Joint Study Committee on the
223 nursing facility preadmission screening program shall be
224 established to advise the Division of Medicaid and make a report
225 to the Legislature with recommendations relative to the
226 continuation or discontinuation of the program. The committee
227 shall be composed of the respective Chairmen and Vice-Chairmen of
228 the Senate Public Health and Welfare Committee, the Senate
229 Appropriations Committee, the House Public Health and Welfare
230 Committee, the House Appropriations Committee, one (1) member of
231 the Senate appointed by the Chairman of the Senate Public Health
232 and Welfare Committee and one (1) member of the House appointed by
233 the Chairman of the House Public Health and Welfare Committee.
234 The chairman of the committee shall be the Chairman of the Senate
235 Public Health and Welfare Committee. Final recommendations of the
236 joint study committee shall require a majority vote of the Senate
237 members and a majority vote of the House members. Members of the
238 committee shall receive the same per diem and expense
239 reimbursement authorized for legislators when attending committee
240 meetings when the Legislature is not in session. The committee
241 shall meet not less than twice annually and shall be furnished
242 written notice of the meetings at least ten (10) days prior to the

243 date of the meeting. The study committee, among its duties and
244 responsibilities prescribed and agreed to, shall:

245 (a) Advise the division with respect to the nursing
246 facility preadmission screening program;

247 (b) Communicate the views of the medical care and
248 nursing facility associations to the division relating to the
249 program and communicate the views of the division to the medical
250 care and nursing facility associations; and

251 (c) Provide a written report on or before November 30,
252 2000, to the Lieutenant Governor and Speaker of the House of
253 Representatives regarding the continuation or discontinuation of
254 the nursing facility preadmission screening program.

255 (f) When a facility of a category that does not require
256 a certificate of need for construction and that could not be
257 eligible for Medicaid reimbursement is constructed to nursing
258 facility specifications for licensure and certification, and the
259 facility is subsequently converted to a nursing facility pursuant
260 to a certificate of need that authorizes conversion only and the
261 applicant for the certificate of need was assessed an application
262 review fee based on capital expenditures incurred in constructing
263 the facility, the division shall allow reimbursement for capital
264 expenditures necessary for construction of the facility that were
265 incurred within the twenty-four (24) consecutive calendar months
266 immediately preceding the date that the certificate of need
267 authorizing such conversion was issued, to the same extent that
268 reimbursement would be allowed for construction of a new nursing
269 facility pursuant to a certificate of need that authorizes such
270 construction. The reimbursement authorized in this subparagraph
271 (f) may be made only to facilities the construction of which was
272 completed after June 30, 1989. Before the division shall be
273 authorized to make the reimbursement authorized in this
274 subparagraph (f), the division first must have received approval
275 from the Health Care Financing Administration of the United States
276 Department of Health and Human Services of the change in the state

277 Medicaid plan providing for such reimbursement.

278 (5) Periodic screening and diagnostic services for
279 individuals under age twenty-one (21) years as are needed to
280 identify physical and mental defects and to provide health care
281 treatment and other measures designed to correct or ameliorate
282 defects and physical and mental illness and conditions discovered
283 by the screening services regardless of whether these services are
284 included in the state plan. The division may include in its
285 periodic screening and diagnostic program those discretionary
286 services authorized under the federal regulations adopted to
287 implement Title XIX of the federal Social Security Act, as
288 amended. The division, in obtaining physical therapy services,
289 occupational therapy services, and services for individuals with
290 speech, hearing and language disorders, may enter into a
291 cooperative agreement with the State Department of Education for
292 the provision of such services to handicapped students by public
293 school districts using state funds which are provided from the
294 appropriation to the Department of Education to obtain federal
295 matching funds through the division. The division, in obtaining
296 medical and psychological evaluations for children in the custody
297 of the State Department of Human Services may enter into a
298 cooperative agreement with the State Department of Human Services
299 for the provision of such services using state funds which are
300 provided from the appropriation to the Department of Human
301 Services to obtain federal matching funds through the division.

302 On July 1, 1993, all fees for periodic screening and
303 diagnostic services under this paragraph (5) shall be increased by
304 twenty-five percent (25%) of the reimbursement rate in effect on
305 June 30, 1993.

306 (6) Physicians' services. On January 1, 1996, all fees for
307 physicians' services shall be reimbursed at seventy percent (70%)
308 of the rate established on January 1, 1994, under Medicare (Title
309 XVIII of the Social Security Act), as amended, and the division
310 may adjust the physicians' reimbursement schedule to reflect the

311 differences in relative value between Medicaid and Medicare.

312 (7) (a) Home health services for eligible persons, not to
313 exceed in cost the prevailing cost of nursing facility services,
314 not to exceed sixty (60) visits per year.

315 (b) The division may revise reimbursement for home
316 health services in order to establish equity between reimbursement
317 for home health services and reimbursement for institutional
318 services within the Medicaid program. This paragraph (b) shall
319 stand repealed on July 1, 1997.

320 (8) Emergency medical transportation services. On January
321 1, 1994, emergency medical transportation services shall be
322 reimbursed at seventy percent (70%) of the rate established under
323 Medicare (Title XVIII of the Social Security Act), as amended.
324 "Emergency medical transportation services" shall mean, but shall
325 not be limited to, the following services by a properly permitted
326 ambulance operated by a properly licensed provider in accordance
327 with the Emergency Medical Services Act of 1974 (Section 41-59-1
328 et seq.): (i) basic life support, (ii) advanced life support,
329 (iii) mileage, (iv) oxygen, (v) intravenous fluids, (vi)
330 disposable supplies, (vii) similar services.

331 (9) Legend and other drugs as may be determined by the
332 division. The division may implement a program of prior approval
333 for drugs to the extent permitted by law. Payment by the division
334 for covered multiple source drugs shall be limited to the lower of
335 the upper limits established and published by the Health Care
336 Financing Administration (HCFA) plus a dispensing fee of Four
337 Dollars and Ninety-one Cents (\$4.91), or the estimated acquisition
338 cost (EAC) as determined by the division plus a dispensing fee of
339 Four Dollars and Ninety-one Cents (\$4.91), or the providers' usual
340 and customary charge to the general public. The division shall
341 allow five (5) prescriptions per month for noninstitutionalized
342 Medicaid recipients.

343 Payment for other covered drugs, other than multiple source
344 drugs with HCFA upper limits, shall not exceed the lower of the

345 estimated acquisition cost as determined by the division plus a
346 dispensing fee of Four Dollars and Ninety-one Cents (\$4.91) or the
347 providers' usual and customary charge to the general public.

348 Payment for nonlegend or over-the-counter drugs covered on
349 the division's formulary shall be reimbursed at the lower of the
350 division's estimated shelf price or the providers' usual and
351 customary charge to the general public. No dispensing fee shall
352 be paid.

353 The division shall develop and implement a program of payment
354 for additional pharmacist services, with payment to be based on
355 demonstrated savings, but in no case shall the total payment
356 exceed twice the amount of the dispensing fee.

357 As used in this paragraph (9), "estimated acquisition cost"
358 means the division's best estimate of what price providers
359 generally are paying for a drug in the package size that providers
360 buy most frequently. Product selection shall be made in
361 compliance with existing state law; however, the division may
362 reimburse as if the prescription had been filled under the generic
363 name. The division may provide otherwise in the case of specified
364 drugs when the consensus of competent medical advice is that
365 trademarked drugs are substantially more effective.

366 (10) Dental care that is an adjunct to treatment of an acute
367 medical or surgical condition; services of oral surgeons and
368 dentists in connection with surgery related to the jaw or any
369 structure contiguous to the jaw or the reduction of any fracture
370 of the jaw or any facial bone; and emergency dental extractions
371 and treatment related thereto. On January 1, 1994, all fees for
372 dental care and surgery under authority of this paragraph (10)
373 shall be increased by twenty percent (20%) of the reimbursement
374 rate as provided in the Dental Services Provider Manual in effect
375 on December 31, 1993.

376 (11) Eyeglasses necessitated by reason of eye surgery, and
377 as prescribed by a physician skilled in diseases of the eye or an
378 optometrist, whichever the patient may select.

379 (12) Intermediate care facility services.

380 (a) The division shall make full payment to all
381 intermediate care facilities for the mentally retarded for each
382 day, not exceeding thirty-six (36) days per year, that a patient
383 is absent from the facility on home leave. However, before
384 payment may be made for more than eighteen (18) home leave days in
385 a year for a patient, the patient must have written authorization
386 from a physician stating that the patient is physically and
387 mentally able to be away from the facility on home leave. Such
388 authorization must be filed with the division before it will be
389 effective, and the authorization shall be effective for three (3)
390 months from the date it is received by the division, unless it is
391 revoked earlier by the physician because of a change in the
392 condition of the patient.

393 (b) All state-owned intermediate care facilities for
394 the mentally retarded shall be reimbursed on a full reasonable
395 cost basis.

396 (13) Family planning services, including drugs, supplies and
397 devices, when such services are under the supervision of a
398 physician.

399 (14) Clinic services. Such diagnostic, preventive,
400 therapeutic, rehabilitative or palliative services furnished to an
401 outpatient by or under the supervision of a physician or dentist
402 in a facility which is not a part of a hospital but which is
403 organized and operated to provide medical care to outpatients.
404 Clinic services shall include any services reimbursed as
405 outpatient hospital services which may be rendered in such a
406 facility, including those that become so after July 1, 1991. On
407 January 1, 1994, all fees for physicians' services reimbursed
408 under authority of this paragraph (14) shall be reimbursed at
409 seventy percent (70%) of the rate established on January 1, 1993,
410 under Medicare (Title XVIII of the Social Security Act), as
411 amended, or the amount that would have been paid under the
412 division's fee schedule that was in effect on December 31, 1993,

413 whichever is greater, and the division may adjust the physicians'
414 reimbursement schedule to reflect the differences in relative
415 value between Medicaid and Medicare. However, on January 1, 1994,
416 the division may increase any fee for physicians' services in the
417 division's fee schedule on December 31, 1993, that was greater
418 than seventy percent (70%) of the rate established under Medicare
419 by no more than ten percent (10%). On January 1, 1994, all fees
420 for dentists' services reimbursed under authority of this
421 paragraph (14) shall be increased by twenty percent (20%) of the
422 reimbursement rate as provided in the Dental Services Provider
423 Manual in effect on December 31, 1993.

424 (15) Home- and community-based services, as provided under
425 Title XIX of the federal Social Security Act, as amended, under
426 waivers, subject to the availability of funds specifically
427 appropriated therefor by the Legislature. Payment for such
428 services shall be limited to individuals who would be eligible for
429 and would otherwise require the level of care provided in a
430 nursing facility. The home- and community-based services
431 authorized under this paragraph shall be expanded to four thousand
432 four hundred (4,400) recipients over a five-year period beginning
433 July 1, 1999. The division shall certify case management agencies
434 to provide case management services and provide for home- and
435 community-based services for eligible individuals under this
436 paragraph. The home- and community-based services under this
437 paragraph and the activities performed by certified case
438 management agencies under this paragraph shall be funded using
439 state funds that are provided from the appropriation to the
440 Division of Medicaid and used to match federal funds * * *.

441 (16) Mental health services. Approved therapeutic and case
442 management services provided by (a) an approved regional mental
443 health/retardation center established under Sections 41-19-31
444 through 41-19-39, or by another community mental health service
445 provider meeting the requirements of the Department of Mental
446 Health to be an approved mental health/retardation center if

447 determined necessary by the Department of Mental Health, using
448 state funds which are provided from the appropriation to the State
449 Department of Mental Health and used to match federal funds under
450 a cooperative agreement between the division and the department,
451 or (b) a facility which is certified by the State Department of
452 Mental Health to provide therapeutic and case management services,
453 to be reimbursed on a fee for service basis. Any such services
454 provided by a facility described in paragraph (b) must have the
455 prior approval of the division to be reimbursable under this
456 section. After June 30, 1997, mental health services provided by
457 regional mental health/retardation centers established under
458 Sections 41-19-31 through 41-19-39, or by hospitals as defined in
459 Section 41-9-3(a) and/or their subsidiaries and divisions, or by
460 psychiatric residential treatment facilities as defined in Section
461 43-11-1, or by another community mental health service provider
462 meeting the requirements of the Department of Mental Health to be
463 an approved mental health/retardation center if determined
464 necessary by the Department of Mental Health, shall not be
465 included in or provided under any capitated managed care pilot
466 program provided for under paragraph (24) of this section.

467 (17) Durable medical equipment services and medical supplies
468 restricted to patients receiving home health services unless
469 waived on an individual basis by the division. The division shall
470 not expend more than Three Hundred Thousand Dollars (\$300,000.00)
471 of state funds annually to pay for medical supplies authorized
472 under this paragraph.

473 (18) Notwithstanding any other provision of this section to
474 the contrary, the division shall make additional reimbursement to
475 hospitals which serve a disproportionate share of low-income
476 patients and which meet the federal requirements for such payments
477 as provided in Section 1923 of the federal Social Security Act and
478 any applicable regulations.

479 (19) (a) Perinatal risk management services. The division
480 shall promulgate regulations to be effective from and after

481 October 1, 1988, to establish a comprehensive perinatal system for
482 risk assessment of all pregnant and infant Medicaid recipients and
483 for management, education and follow-up for those who are
484 determined to be at risk. Services to be performed include case
485 management, nutrition assessment/counseling, psychosocial
486 assessment/counseling and health education. The division shall
487 set reimbursement rates for providers in conjunction with the
488 State Department of Health.

489 (b) Early intervention system services. The division
490 shall cooperate with the State Department of Health, acting as
491 lead agency, in the development and implementation of a statewide
492 system of delivery of early intervention services, pursuant to
493 Part H of the Individuals with Disabilities Education Act (IDEA).
494 The State Department of Health shall certify annually in writing
495 to the director of the division the dollar amount of state early
496 intervention funds available which shall be utilized as a
497 certified match for Medicaid matching funds. Those funds then
498 shall be used to provide expanded targeted case management
499 services for Medicaid eligible children with special needs who are
500 eligible for the state's early intervention system.
501 Qualifications for persons providing service coordination shall be
502 determined by the State Department of Health and the Division of
503 Medicaid.

504 (20) Home- and community-based services for physically
505 disabled approved services as allowed by a waiver from the U.S.
506 Department of Health and Human Services for home- and
507 community-based services for physically disabled people using
508 state funds which are provided from the appropriation to the State
509 Department of Rehabilitation Services and used to match federal
510 funds under a cooperative agreement between the division and the
511 department, provided that funds for these services are
512 specifically appropriated to the Department of Rehabilitation
513 Services.

514 (21) Nurse practitioner services. Services furnished by a

515 registered nurse who is licensed and certified by the Mississippi
516 Board of Nursing as a nurse practitioner including, but not
517 limited to, nurse anesthetists, nurse midwives, family nurse
518 practitioners, family planning nurse practitioners, pediatric
519 nurse practitioners, obstetrics-gynecology nurse practitioners and
520 neonatal nurse practitioners, under regulations adopted by the
521 division. Reimbursement for such services shall not exceed ninety
522 percent (90%) of the reimbursement rate for comparable services
523 rendered by a physician.

524 (22) Ambulatory services delivered in federally qualified
525 health centers and in clinics of the local health departments of
526 the State Department of Health for individuals eligible for
527 medical assistance under this article based on reasonable costs as
528 determined by the division.

529 (23) Inpatient psychiatric services. Inpatient psychiatric
530 services to be determined by the division for recipients under age
531 twenty-one (21) which are provided under the direction of a
532 physician in an inpatient program in a licensed acute care
533 psychiatric facility or in a licensed psychiatric residential
534 treatment facility, before the recipient reaches age twenty-one
535 (21) or, if the recipient was receiving the services immediately
536 before he reached age twenty-one (21), before the earlier of the
537 date he no longer requires the services or the date he reaches age
538 twenty-two (22), as provided by federal regulations. Recipients
539 shall be allowed forty-five (45) days per year of psychiatric
540 services provided in acute care psychiatric facilities, and shall
541 be allowed unlimited days of psychiatric services provided in
542 licensed psychiatric residential treatment facilities.

543 (24) Managed care services in a program to be developed by
544 the division by a public or private provider. Notwithstanding any
545 other provision in this article to the contrary, the division
546 shall establish rates of reimbursement to providers rendering care
547 and services authorized under this section, and may revise such
548 rates of reimbursement without amendment to this section by the

549 Legislature for the purpose of achieving effective and accessible
550 health services, and for responsible containment of costs. This
551 shall include, but not be limited to, one (1) module of capitated
552 managed care in a rural area, and one (1) module of capitated
553 managed care in an urban area.

554 (25) Birthing center services.

555 (26) Hospice care. As used in this paragraph, the term
556 "hospice care" means a coordinated program of active professional
557 medical attention within the home and outpatient and inpatient
558 care which treats the terminally ill patient and family as a unit,
559 employing a medically directed interdisciplinary team. The
560 program provides relief of severe pain or other physical symptoms
561 and supportive care to meet the special needs arising out of
562 physical, psychological, spiritual, social and economic stresses
563 which are experienced during the final stages of illness and
564 during dying and bereavement and meets the Medicare requirements
565 for participation as a hospice as provided in 42 CFR Part 418.

566 (27) Group health plan premiums and cost sharing if it is
567 cost effective as defined by the Secretary of Health and Human
568 Services.

569 (28) Other health insurance premiums which are cost
570 effective as defined by the Secretary of Health and Human
571 Services. Medicare eligible must have Medicare Part B before
572 other insurance premiums can be paid.

573 (29) The Division of Medicaid may apply for a waiver from
574 the Department of Health and Human Services for home- and
575 community-based services for developmentally disabled people using
576 state funds which are provided from the appropriation to the State
577 Department of Mental Health and used to match federal funds under
578 a cooperative agreement between the division and the department,
579 provided that funds for these services are specifically
580 appropriated to the Department of Mental Health.

581 (30) Pediatric skilled nursing services for eligible persons
582 under twenty-one (21) years of age.

583 (31) Targeted case management services for children with
584 special needs, under waivers from the U.S. Department of Health
585 and Human Services, using state funds that are provided from the
586 appropriation to the Mississippi Department of Human Services and
587 used to match federal funds under a cooperative agreement between
588 the division and the department.

589 (32) Care and services provided in Christian Science
590 Sanatoria operated by or listed and certified by The First Church
591 of Christ Scientist, Boston, Massachusetts, rendered in connection
592 with treatment by prayer or spiritual means to the extent that
593 such services are subject to reimbursement under Section 1903 of
594 the Social Security Act.

595 (33) Podiatrist services.

596 (34) Personal care services provided in a pilot program to
597 not more than forty (40) residents at a location or locations to
598 be determined by the division and delivered by individuals
599 qualified to provide such services, as allowed by waivers under
600 Title XIX of the Social Security Act, as amended. The division
601 shall not expend more than Three Hundred Thousand Dollars
602 (\$300,000.00) annually to provide such personal care services.
603 The division shall develop recommendations for the effective
604 regulation of any facilities that would provide personal care
605 services which may become eligible for Medicaid reimbursement
606 under this section, and shall present such recommendations with
607 any proposed legislation to the 1996 Regular Session of the
608 Legislature on or before January 1, 1996.

609 (35) Services and activities authorized in Sections
610 43-27-101 and 43-27-103, using state funds that are provided from
611 the appropriation to the State Department of Human Services and
612 used to match federal funds under a cooperative agreement between
613 the division and the department.

614 (36) Nonemergency transportation services for
615 Medicaid-eligible persons, to be provided by the Department of
616 Human Services. The division may contract with additional

617 entities to administer nonemergency transportation services as it
618 deems necessary. All providers shall have a valid driver's
619 license, vehicle inspection sticker and a standard liability
620 insurance policy covering the vehicle.

621 (37) Targeted case management services for individuals with
622 chronic diseases, with expanded eligibility to cover services to
623 uninsured recipients, on a pilot program basis. This paragraph
624 (37) shall be contingent upon continued receipt of special funds
625 from the Health Care Financing Authority and private foundations
626 who have granted funds for planning these services. No funding
627 for these services shall be provided from State General Funds.

628 (38) Chiropractic services: a chiropractor's manual
629 manipulation of the spine to correct a subluxation, if x-ray
630 demonstrates that a subluxation exists and if the subluxation has
631 resulted in a neuromusculoskeletal condition for which
632 manipulation is appropriate treatment. Reimbursement for
633 chiropractic services shall not exceed Seven Hundred Dollars
634 (\$700.00) per year per recipient.

635 Notwithstanding any provision of this article, except as
636 authorized in the following paragraph and in Section 43-13-139,
637 neither (a) the limitations on quantity or frequency of use of or
638 the fees or charges for any of the care or services available to
639 recipients under this section, nor (b) the payments or rates of
640 reimbursement to providers rendering care or services authorized
641 under this section to recipients, may be increased, decreased or
642 otherwise changed from the levels in effect on July 1, 1986,
643 unless such is authorized by an amendment to this section by the
644 Legislature. However, the restriction in this paragraph shall not
645 prevent the division from changing the payments or rates of
646 reimbursement to providers without an amendment to this section
647 whenever such changes are required by federal law or regulation,
648 or whenever such changes are necessary to correct administrative
649 errors or omissions in calculating such payments or rates of
650 reimbursement.

651 Notwithstanding any provision of this article, no new groups
652 or categories of recipients and new types of care and services may
653 be added without enabling legislation from the Mississippi
654 Legislature, except that the division may authorize such changes
655 without enabling legislation when such addition of recipients or
656 services is ordered by a court of proper authority. The director
657 shall keep the Governor advised on a timely basis of the funds
658 available for expenditure and the projected expenditures. In the
659 event current or projected expenditures can be reasonably
660 anticipated to exceed the amounts appropriated for any fiscal
661 year, the Governor, after consultation with the director, shall
662 discontinue any or all of the payment of the types of care and
663 services as provided herein which are deemed to be optional
664 services under Title XIX of the federal Social Security Act, as
665 amended, for any period necessary to not exceed appropriated
666 funds, and when necessary shall institute any other cost
667 containment measures on any program or programs authorized under
668 the article to the extent allowed under the federal law governing
669 such program or programs, it being the intent of the Legislature
670 that expenditures during any fiscal year shall not exceed the
671 amounts appropriated for such fiscal year.

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

674 41-7-191. (1) No person shall engage in any of the
675 following activities without obtaining the required certificate of
676 need:

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

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

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

685 licensed category or subcategory of any health care facility,
686 whichever is less, from one physical facility or site to another;
687 the conversion over a period of two (2) years' time, as
688 established by the State Department of Health, of existing bed
689 complement of more than ten (10) beds or more than ten percent
690 (10%) of the total bed capacity of a designated licensed category
691 or subcategory of any such health care facility, whichever is
692 less; or the alteration, modernizing or refurbishing of any unit
693 or department wherein such beds may be located; provided, however,
694 that from and after July 1, 1994, no health care facility shall be
695 authorized to add any beds or convert any beds to another category
696 of beds without a certificate of need under the authority of
697 subsection (1)(c) of this section unless there is a projected need
698 for such beds in the planning district in which the facility is
699 located, as reported in the most current State Health Plan;

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

- 704 (i) Open heart surgery services;
- 705 (ii) Cardiac catheterization services;
- 706 (iii) Comprehensive inpatient rehabilitation
707 services;
- 708 (iv) Licensed psychiatric services;
- 709 (v) Licensed chemical dependency services;
- 710 (vi) Radiation therapy services;
- 711 (vii) Diagnostic imaging services of an invasive
712 nature, i.e. invasive digital angiography;
- 713 (viii) Nursing home care as defined in
714 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 715 (ix) Home health services;
- 716 (x) Swing-bed services;
- 717 (xi) Ambulatory surgical services;
- 718 (xii) Magnetic resonance imaging services;

719 (xiii) Extracorporeal shock wave lithotripsy
720 services;

721 (xiv) Long-term care hospital services;

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

723 (e) The relocation of one or more health services from
724 one physical facility or site to another physical facility or
725 site, unless such relocation, which does not involve a capital
726 expenditure by or on behalf of a health care facility, is the
727 result of an order of a court of appropriate jurisdiction or a
728 result of pending litigation in such court, or by order of the
729 State Department of Health, or by order of any other agency or
730 legal entity of the state, the federal government, or any
731 political subdivision of either, whose order is also approved by
732 the State Department of Health;

733 (f) The acquisition or otherwise control of any major
734 medical equipment for the provision of medical services; provided,
735 however, that the acquisition of any major medical equipment used
736 only for research purposes shall be exempt from this paragraph; an
737 acquisition for less than fair market value must be reviewed, if
738 the acquisition at fair market value would be subject to review;

739 (g) Changes of ownership of existing health care
740 facilities in which a notice of intent is not filed with the State
741 Department of Health at least thirty (30) days prior to the date
742 such change of ownership occurs, or a change in services or bed
743 capacity as prescribed in paragraph (c) or (d) of this subsection
744 as a result of the change of ownership; an acquisition for less
745 than fair market value must be reviewed, if the acquisition at
746 fair market value would be subject to review;

747 (h) The change of ownership of any health care facility
748 defined in subparagraphs (iv), (vi) and (viii) of Section
749 41-7-173(h), in which a notice of intent as described in paragraph
750 (g) has not been filed and if the Executive Director, Division of
751 Medicaid, Office of the Governor, has not certified in writing
752 that there will be no increase in allowable costs to Medicaid from

753 revaluation of the assets or from increased interest and
754 depreciation as a result of the proposed change of ownership;

755 (i) Any activity described in paragraphs (a) through
756 (h) if undertaken by any person if that same activity would
757 require certificate of need approval if undertaken by a health
758 care facility;

759 (j) Any capital expenditure or deferred capital
760 expenditure by or on behalf of a health care facility not covered
761 by paragraphs (a) through (h);

762 (k) The contracting of a health care facility as
763 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
764 to establish a home office, subunit, or branch office in the space
765 operated as a health care facility through a formal arrangement
766 with an existing health care facility as defined in subparagraph
767 (ix) of Section 41-7-173(h).

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

775 (a) The total number of nursing home beds as defined in
776 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
777 authorized by such certificates of need issued during the period
778 beginning on July 1, 1989, and ending on June 30, 1999, shall not
779 exceed one thousand four hundred seventy (1,470) beds. The number
780 of nursing home beds authorized under paragraphs (z), (cc), (dd),
781 (ee), * * * (ff) and (gg) of this subsection (2) shall not be
782 counted in the limit on the total number of beds provided for in
783 this paragraph (a).

784 (b) The department may issue a certificate of need to
785 any of the hospitals in the state which have a distinct part
786 component of the hospital that was constructed for extended care

787 use (nursing home care) but is not currently licensed to provide
788 nursing home care, which certificate of need will authorize the
789 distinct part component to be operated to provide nursing home
790 care after a license is obtained. The six (6) hospitals which
791 currently have these distinct part components and which are
792 eligible for a certificate of need under this section are:
793 Webster General Hospital in Webster County, Tippah County General
794 Hospital in Tippah County, Tishomingo County Hospital in
795 Tishomingo County, North Sunflower County Hospital in Sunflower
796 County, H.C. Watkins Hospital in Clarke County and Northwest
797 Regional Medical Center in Coahoma County. Because the facilities
798 to be considered currently exist and no new construction is
799 required, the provision of Section 41-7-193(1) regarding
800 substantial compliance with the projection of need as reported in
801 the 1989 State Health Plan is waived. The total number of nursing
802 home care beds that may be authorized by certificates of need
803 issued under this paragraph shall not exceed one hundred
804 fifty-four (154) beds.

805 (c) The department may issue a certificate of need to
806 any person proposing the new construction of any health care
807 facility defined in subparagraphs (iv) and (vi) of Section
808 41-7-173(h) as part of a life care retirement facility, in any
809 county bordering on the Gulf of Mexico in which is located a
810 National Aeronautics and Space Administration facility, not to
811 exceed forty (40) beds, provided that the owner of the health care
812 facility on July 1, 1994, agrees in writing that no more than
813 twenty (20) of the beds in the health care facility will be
814 certified for participation in the Medicaid program (Section
815 43-13-101 et seq.), and that no claim will be submitted for
816 Medicaid reimbursement for more than twenty (20) patients in the
817 health care facility in any day or for any patient in the health
818 care facility who is in a bed that is not Medicaid-certified.
819 This written agreement by the owner of the health care facility on
820 July 1, 1994, shall be fully binding on any subsequent owner of

821 the health care facility if the ownership of the health care
822 facility is transferred at any time after July 1, 1994. After
823 this written agreement is executed, the Division of Medicaid and
824 the State Department of Health shall not certify more than twenty
825 (20) of the beds in the health care facility for participation in
826 the Medicaid program. If the health care facility violates the
827 terms of the written agreement by admitting or keeping in the
828 health care facility on a regular or continuing basis more than
829 twenty (20) patients who are participating in the Medicaid
830 program, the State Department of Health shall revoke the license
831 of the health care facility, at the time that the department
832 determines, after a hearing complying with due process, that the
833 health care facility has violated the terms of the written
834 agreement as provided in this paragraph.

835 (d) The department may issue a certificate of need for
836 the conversion of existing beds in a county district hospital or
837 in a personal care home in Holmes County to provide nursing home
838 care in the county. Because the facilities to be considered
839 currently exist, no new construction shall be authorized by such
840 certificate of need. Because the facilities to be considered
841 currently exist and no new construction is required, the provision
842 of Section 41-7-193(1) regarding substantial compliance with the
843 projection of need as reported in the 1989 State Health Plan is
844 waived. The total number of nursing home care beds that may be
845 authorized by any certificate of need issued under this paragraph
846 shall not exceed sixty (60) beds.

847 (e) The department may issue a certificate of need for
848 the conversion of existing hospital beds to provide nursing home
849 care in a county hospital in Jasper County that has its own
850 licensed nursing home located adjacent to the hospital. The total
851 number of nursing home care beds that may be authorized by any
852 certificate of need issued under this paragraph shall not exceed
853 twenty (20) beds.

854 (f) The department may issue a certificate of need for

855 the conversion of existing hospital beds in a hospital in Calhoun
856 County to provide nursing home care in the county. The total
857 number of nursing home care beds that may be authorized by any
858 certificate of need issued under this paragraph shall not exceed
859 twenty (20) beds.

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

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

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

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

878 (k) The department may issue certificates of need in
879 Harrison County to provide skilled nursing home care for
880 Alzheimer's Disease patients and other patients, not to exceed one
881 hundred fifty (150) beds, provided that (i) the owner of the
882 health care facility issued a certificate of need for sixty (60)
883 beds agrees in writing that no more than thirty (30) of the beds
884 in the health care facility will be certified for participation in
885 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
886 of one (1) of the health care facilities issued a certificate of
887 need for forty-five (45) beds agrees in writing that no more than
888 twenty-three (23) of the beds in the health care facility will be

889 certified for participation in the Medicaid program, and (iii) the
890 owner of the other health care facility issued a certificate of
891 need for forty-five (45) beds agrees in writing that no more than
892 twenty-two (22) of the beds in the health care facility will be
893 certified for participation in the Medicaid program, and that no
894 claim will be submitted for Medicaid reimbursement for a number of
895 patients in the health care facility in any day that is greater
896 than the number of beds certified for participation in the
897 Medicaid program or for any patient in the health care facility
898 who is in a bed that is not Medicaid-certified. These written
899 agreements by the owners of the health care facilities on July 1,
900 1995, shall be fully binding on any subsequent owner of any of the
901 health care facilities if the ownership of any of the health care
902 facilities is transferred at any time after July 1, 1995. After
903 these written agreements are executed, the Division of Medicaid
904 and the State Department of Health shall not certify for
905 participation in the Medicaid program more than the number of beds
906 authorized for participation in the Medicaid program under this
907 paragraph (k) for each respective facility. If any of the health
908 care facilities violates the terms of the written agreement by
909 admitting or keeping in the health care facility on a regular or
910 continuing basis a number of patients that is greater than the
911 number of beds certified for participation in the Medicaid
912 program, the State Department of Health shall revoke the license
913 of the health care facility, at the time that the department
914 determines, after a hearing complying with due process, that the
915 health care facility has violated the terms of the written
916 agreement as provided in this paragraph.

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

921 (m) The department may issue a certificate of need for
922 the new construction of, addition to, or expansion of a nursing

923 home, or the conversion of existing hospital beds to provide
924 nursing home care, in Hancock County. The total number of nursing
925 home care beds that may be authorized by any certificate of need
926 issued under this paragraph shall not exceed sixty (60) beds.

927 (n) The department may issue a certificate of need to
928 any intermediate care facility as defined in Section
929 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
930 beds, for making additions to or expansion or replacement of the
931 existing facility in order to increase the number of its beds to
932 not more than sixty (60) beds. For the purposes of this
933 paragraph, the provision of Section 41-7-193(1) requiring
934 substantial compliance with the projection of need as reported in
935 the current State Health Plan is waived. The total number of
936 nursing home beds that may be authorized by any certificate of
937 need issued under this paragraph shall not exceed twenty-five (25)
938 beds.

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

945 (p) The department shall issue a certificate of need
946 for the construction, expansion or conversion of nursing home
947 care, not to exceed thirty-three (33) beds, in Pontotoc County.
948 The provisions of Section 41-7-193(1) regarding substantial
949 compliance with the projection of need as reported in the current
950 State Health Plan are hereby waived as to such construction,
951 expansion or conversion.

952 (q) The department may issue a certificate of need for
953 the construction of a pediatric skilled nursing facility in
954 Harrison County, not to exceed sixty (60) new beds. For the
955 purposes of this paragraph, the provision of Section 41-7-193(1)
956 requiring substantial compliance with the projection of need as

957 reported in the current State Health Plan is waived.

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

987 (s) The State Department of Health may issue a
988 certificate of need to any hospital located in DeSoto County for
989 the new construction of a skilled nursing facility, not to exceed
990 one hundred twenty (120) beds, in DeSoto County, provided that the

991 recipient of the certificate of need agrees in writing that no
992 more than thirty (30) of the beds in the skilled nursing facility
993 will be certified for participation in the Medicaid program
994 (Section 43-13-101 et seq.), and that no claim will be submitted
995 for Medicaid reimbursement for more than thirty (30) patients in
996 the facility in any day or for any patient in the facility who is
997 in a bed that is not Medicaid-certified. This written agreement
998 by the recipient of the certificate of need shall be a condition
999 of the issuance of the certificate of need under this paragraph,
1000 and the agreement shall be fully binding on any subsequent owner
1001 of the skilled nursing facility if the ownership of the facility
1002 is transferred at any time after the issuance of the certificate
1003 of need. After this written agreement is executed, the Division
1004 of Medicaid and the State Department of Health shall not certify
1005 more than thirty (30) of the beds in the skilled nursing facility
1006 for participation in the Medicaid program. If the skilled nursing
1007 facility violates the terms of the written agreement by admitting
1008 or keeping in the facility on a regular or continuing basis more
1009 than thirty (30) patients who are participating in the Medicaid
1010 program, the State Department of Health shall revoke the license
1011 of the facility, at the time that the department determines, after
1012 a hearing complying with due process, that the facility has
1013 violated the condition upon which the certificate of need was
1014 issued, as provided in this paragraph and in the written
1015 agreement. If the skilled nursing facility authorized by the
1016 certificate of need issued under this paragraph is not constructed
1017 and fully operational within eighteen (18) months after July 1,
1018 1994, the State Department of Health, after a hearing complying
1019 with due process, shall revoke the certificate of need, if it is
1020 still outstanding, and shall not issue a license for the facility
1021 at any time after the expiration of the eighteen-month period.

1022 (t) The State Department of Health may issue a
1023 certificate of need for the construction of a nursing facility or
1024 the conversion of beds to nursing facility beds at a personal care

1025 facility for the elderly in Lowndes County that is owned and
1026 operated by a Mississippi nonprofit corporation, not to exceed
1027 sixty (60) beds, provided that the recipient of the certificate of
1028 need agrees in writing that no more than thirty (30) of the beds
1029 at the facility will be certified for participation in the
1030 Medicaid program (Section 43-13-101 et seq.), and that no claim
1031 will be submitted for Medicaid reimbursement for more than thirty
1032 (30) patients in the facility in any month or for any patient in
1033 the facility who is in a bed that is not Medicaid-certified. This
1034 written agreement by the recipient of the certificate of need
1035 shall be a condition of the issuance of the certificate of need
1036 under this paragraph, and the agreement shall be fully binding on
1037 any subsequent owner of the facility if the ownership of the
1038 facility is transferred at any time after the issuance of the
1039 certificate of need. After this written agreement is executed,
1040 the Division of Medicaid and the State Department of Health shall
1041 not certify more than thirty (30) of the beds in the facility for
1042 participation in the Medicaid program. If the facility violates
1043 the terms of the written agreement by admitting or keeping in the
1044 facility on a regular or continuing basis more than thirty (30)
1045 patients who are participating in the Medicaid program, the State
1046 Department of Health shall revoke the license of the facility, at
1047 the time that the department determines, after a hearing complying
1048 with due process, that the facility has violated the condition
1049 upon which the certificate of need was issued, as provided in this
1050 paragraph and in the written agreement. If the nursing facility
1051 or nursing facility beds authorized by the certificate of need
1052 issued under this paragraph are not constructed or converted and
1053 fully operational within eighteen (18) months after July 1, 1994,
1054 the State Department of Health, after a hearing complying with due
1055 process, shall revoke the certificate of need, if it is still
1056 outstanding, and shall not issue a license for the nursing
1057 facility or nursing facility beds at any time after the expiration
1058 of the eighteen-month period.

1059 (u) The State Department of Health may issue a
1060 certificate of need for conversion of a county hospital facility
1061 in Itawamba County to a nursing facility, not to exceed sixty (60)
1062 beds, including any necessary construction, renovation or
1063 expansion, provided that the recipient of the certificate of need
1064 agrees in writing that no more than thirty (30) of the beds at the
1065 facility will be certified for participation in the Medicaid
1066 program (Section 43-13-101 et seq.), and that no claim will be
1067 submitted for Medicaid reimbursement for more than thirty (30)
1068 patients in the facility in any day or for any patient in the
1069 facility who is in a bed that is not Medicaid-certified. This
1070 written agreement by the recipient of the certificate of need
1071 shall be a condition of the issuance of the certificate of need
1072 under this paragraph, and the agreement shall be fully binding on
1073 any subsequent owner of the facility if the ownership of the
1074 facility is transferred at any time after the issuance of the
1075 certificate of need. After this written agreement is executed,
1076 the Division of Medicaid and the State Department of Health shall
1077 not certify more than thirty (30) of the beds in the facility for
1078 participation in the Medicaid program. If the facility violates
1079 the terms of the written agreement by admitting or keeping in the
1080 facility on a regular or continuing basis more than thirty (30)
1081 patients who are participating in the Medicaid program, the State
1082 Department of Health shall revoke the license of the facility, at
1083 the time that the department determines, after a hearing complying
1084 with due process, that the facility has violated the condition
1085 upon which the certificate of need was issued, as provided in this
1086 paragraph and in the written agreement. If the beds authorized by
1087 the certificate of need issued under this paragraph are not
1088 converted to nursing facility beds and fully operational within
1089 eighteen (18) months after July 1, 1994, the State Department of
1090 Health, after a hearing complying with due process, shall revoke
1091 the certificate of need, if it is still outstanding, and shall not
1092 issue a license for the facility at any time after the expiration

1093 of the eighteen-month period.

1094 (v) The State Department of Health may issue a
1095 certificate of need for the construction or expansion of nursing
1096 facility beds or the conversion of other beds to nursing facility
1097 beds in either Hinds, Madison or Rankin Counties, not to exceed
1098 sixty (60) beds, provided that the recipient of the certificate of
1099 need agrees in writing that no more than thirty (30) of the beds
1100 at the nursing facility will be certified for participation in the
1101 Medicaid program (Section 43-13-101 et seq.), and that no claim
1102 will be submitted for Medicaid reimbursement for more than thirty
1103 (30) patients in the nursing facility in any day or for any
1104 patient in the nursing facility who is in a bed that is not
1105 Medicaid-certified. This written agreement by the recipient of
1106 the certificate of need shall be a condition of the issuance of
1107 the certificate of need under this paragraph, and the agreement
1108 shall be fully binding on any subsequent owner of the nursing
1109 facility if the ownership of the nursing facility is transferred
1110 at any time after the issuance of the certificate of need. After
1111 this written agreement is executed, the Division of Medicaid and
1112 the State Department of Health shall not certify more than thirty
1113 (30) of the beds in the nursing facility for participation in the
1114 Medicaid program. If the nursing facility violates the terms of
1115 the written agreement by admitting or keeping in the nursing
1116 facility on a regular or continuing basis more than thirty (30)
1117 patients who are participating in the Medicaid program, the State
1118 Department of Health shall revoke the license of the nursing
1119 facility, at the time that the department determines, after a
1120 hearing complying with due process, that the nursing facility has
1121 violated the condition upon which the certificate of need was
1122 issued, as provided in this paragraph and in the written
1123 agreement. If the nursing facility or nursing facility beds
1124 authorized by the certificate of need issued under this paragraph
1125 are not constructed, expanded or converted and fully operational
1126 within thirty-six (36) months after July 1, 1994, the State

1127 Department of Health, after a hearing complying with due process,
1128 shall revoke the certificate of need, if it is still outstanding,
1129 and shall not issue a license for the nursing facility or nursing
1130 facility beds at any time after the expiration of the
1131 thirty-six-month period.

1132 (w) The State Department of Health may issue a
1133 certificate of need for the construction or expansion of nursing
1134 facility beds or the conversion of other beds to nursing facility
1135 beds in either Hancock, Harrison or Jackson Counties, not to
1136 exceed sixty (60) beds, provided that the recipient of the
1137 certificate of need agrees in writing that no more than thirty
1138 (30) of the beds at the nursing facility will be certified for
1139 participation in the Medicaid program (Section 43-13-101 et seq.),
1140 and that no claim will be submitted for Medicaid reimbursement for
1141 more than thirty (30) patients in the nursing facility in any day
1142 or for any patient in the nursing facility who is in a bed that is
1143 not Medicaid-certified. This written agreement by the recipient
1144 of the certificate of need shall be a condition of the issuance of
1145 the certificate of need under this paragraph, and the agreement
1146 shall be fully binding on any subsequent owner of the nursing
1147 facility if the ownership of the nursing facility is transferred
1148 at any time after the issuance of the certificate of need. After
1149 this written agreement is executed, the Division of Medicaid and
1150 the State Department of Health shall not certify more than thirty
1151 (30) of the beds in the nursing facility for participation in the
1152 Medicaid program. If the nursing facility violates the terms of
1153 the written agreement by admitting or keeping in the nursing
1154 facility on a regular or continuing basis more than thirty (30)
1155 patients who are participating in the Medicaid program, the State
1156 Department of Health shall revoke the license of the nursing
1157 facility, at the time that the department determines, after a
1158 hearing complying with due process, that the nursing facility has
1159 violated the condition upon which the certificate of need was
1160 issued, as provided in this paragraph and in the written

1161 agreement. If the nursing facility or nursing facility beds
1162 authorized by the certificate of need issued under this paragraph
1163 are not constructed, expanded or converted and fully operational
1164 within thirty-six (36) months after July 1, 1994, the State
1165 Department of Health, after a hearing complying with due process,
1166 shall revoke the certificate of need, if it is still outstanding,
1167 and shall not issue a license for the nursing facility or nursing
1168 facility beds at any time after the expiration of the
1169 thirty-six-month period.

1170 (x) The department may issue a certificate of need for
1171 the new construction of a skilled nursing facility in Leake
1172 County, provided that the recipient of the certificate of need
1173 agrees in writing that the skilled nursing facility will not at
1174 any time participate in the Medicaid program (Section 43-13-101 et
1175 seq.) or admit or keep any patients in the skilled nursing
1176 facility who are participating in the Medicaid program. This
1177 written agreement by the recipient of the certificate of need
1178 shall be fully binding on any subsequent owner of the skilled
1179 nursing facility, if the ownership of the facility is transferred
1180 at any time after the issuance of the certificate of need.
1181 Agreement that the skilled nursing facility will not participate
1182 in the Medicaid program shall be a condition of the issuance of a
1183 certificate of need to any person under this paragraph (x), and if
1184 such skilled nursing facility at any time after the issuance of
1185 the certificate of need, regardless of the ownership of the
1186 facility, participates in the Medicaid program or admits or keeps
1187 any patients in the facility who are participating in the Medicaid
1188 program, the State Department of Health shall revoke the
1189 certificate of need, if it is still outstanding, and shall deny or
1190 revoke the license of the skilled nursing facility, at the time
1191 that the department determines, after a hearing complying with due
1192 process, that the facility has failed to comply with any of the
1193 conditions upon which the certificate of need was issued, as
1194 provided in this paragraph and in the written agreement by the

1195 recipient of the certificate of need. The provision of Section
1196 43-7-193(1) regarding substantial compliance of the projection of
1197 need as reported in the current State Health Plan is waived for
1198 the purposes of this paragraph. The total number of nursing
1199 facility beds that may be authorized by any certificate of need
1200 issued under this paragraph (x) shall not exceed sixty (60) beds.
1201 If the skilled nursing facility authorized by the certificate of
1202 need issued under this paragraph is not constructed and fully
1203 operational within eighteen (18) months after July 1, 1994, the
1204 State Department of Health, after a hearing complying with due
1205 process, shall revoke the certificate of need, if it is still
1206 outstanding, and shall not issue a license for the skilled nursing
1207 facility at any time after the expiration of the eighteen-month
1208 period.

1209 (y) The department may issue a certificate of need in
1210 Jones County for making additions to or expansion or replacement
1211 of an existing forty-bed facility in order to increase the number
1212 of its beds to not more than sixty (60) beds. For the purposes of
1213 this paragraph, the provision of Section 41-7-193(1) requiring
1214 substantial compliance with the projection of need as reported in
1215 the current State Health Plan is waived. The total number of
1216 nursing home beds that may be authorized by any certificate of
1217 need issued under this paragraph shall not exceed twenty (20)
1218 beds.

1219 (z) The department may issue certificates of need to
1220 allow any existing freestanding long-term care facility in
1221 Tishomingo County and Hancock County that on July 1, 1995, is
1222 licensed with fewer than sixty (60) beds to increase the number of
1223 its beds to not more than sixty (60) beds, provided that the
1224 recipient of the certificate of need agrees in writing that none
1225 of the additional beds authorized by this paragraph (z) at the
1226 nursing facility will be certified for participation in the
1227 Medicaid program (Section 43-13-101 et seq.), and that no claim
1228 will be submitted for Medicaid reimbursement in the nursing

1229 facility for a number of patients in the nursing facility in any
1230 day that is greater than the number of licensed beds in the
1231 facility on July 1, 1995. This written agreement by the recipient
1232 of the certificate of need shall be a condition of the issuance of
1233 the certificate of need under this paragraph, and the agreement
1234 shall be fully binding on any subsequent owner of the nursing
1235 facility if the ownership of the nursing facility is transferred
1236 at any time after the issuance of the certificate of need. After
1237 this agreement is executed, the Division of Medicaid and the State
1238 Department of Health shall not certify more beds in the nursing
1239 facility for participation in the Medicaid program than the number
1240 of licensed beds in the facility on July 1, 1995. If the nursing
1241 facility violates the terms of the written agreement by admitting
1242 or keeping in the nursing facility on a regular or continuing
1243 basis a number of patients who are participating in the Medicaid
1244 program that is greater than the number of licensed beds in the
1245 facility on July 1, 1995, the State Department of Health shall
1246 revoke the license of the nursing facility, at the time that the
1247 department determines, after a hearing complying with due process,
1248 that the nursing facility has violated the condition upon which
1249 the certificate of need was issued, as provided in this paragraph
1250 and in the written agreement. For the purposes of this paragraph
1251 (z), the provision of Section 41-7-193(1) requiring substantial
1252 compliance with the projection of need as reported in the current
1253 State Health Plan is waived.

1254 (aa) The department may issue a certificate of need for
1255 the construction of a nursing facility at a continuing care
1256 retirement community in Lowndes County, provided that the
1257 recipient of the certificate of need agrees in writing that the
1258 nursing facility will not at any time participate in the Medicaid
1259 program (Section 43-13-101 et seq.) or admit or keep any patients
1260 in the nursing facility who are participating in the Medicaid
1261 program. This written agreement by the recipient of the
1262 certificate of need shall be fully binding on any subsequent owner

1263 of the nursing facility, if the ownership of the facility is
1264 transferred at any time after the issuance of the certificate of
1265 need. Agreement that the nursing facility will not participate in
1266 the Medicaid program shall be a condition of the issuance of a
1267 certificate of need to any person under this paragraph (aa), and
1268 if such nursing facility at any time after the issuance of the
1269 certificate of need, regardless of the ownership of the facility,
1270 participates in the Medicaid program or admits or keeps any
1271 patients in the facility who are participating in the Medicaid
1272 program, the State Department of Health shall revoke the
1273 certificate of need, if it is still outstanding, and shall deny or
1274 revoke the license of the nursing facility, at the time that the
1275 department determines, after a hearing complying with due process,
1276 that the facility has failed to comply with any of the conditions
1277 upon which the certificate of need was issued, as provided in this
1278 paragraph and in the written agreement by the recipient of the
1279 certificate of need. The total number of beds that may be
1280 authorized under the authority of this paragraph (aa) shall not
1281 exceed sixty (60) beds.

1282 (bb) Provided that funds are specifically appropriated
1283 therefor by the Legislature, the department may issue a
1284 certificate of need to a rehabilitation hospital in Hinds County
1285 for the construction of a sixty-bed long-term care nursing
1286 facility dedicated to the care and treatment of persons with
1287 severe disabilities including persons with spinal cord and
1288 closed-head injuries and ventilator-dependent patients. The
1289 provision of Section 41-7-193(1) regarding substantial compliance
1290 with projection of need as reported in the current State Health
1291 Plan is hereby waived for the purpose of this paragraph.

1292 (cc) The State Department of Health may issue a
1293 certificate of need to a county-owned hospital in the Second
1294 Judicial District of Panola County for the conversion of not more
1295 than seventy-two (72) hospital beds to nursing facility beds,
1296 provided that the recipient of the certificate of need agrees in

1297 writing that none of the beds at the nursing facility will be
1298 certified for participation in the Medicaid program (Section
1299 43-13-101 et seq.), and that no claim will be submitted for
1300 Medicaid reimbursement in the nursing facility in any day or for
1301 any patient in the nursing facility. This written agreement by
1302 the recipient of the certificate of need shall be a condition of
1303 the issuance of the certificate of need under this paragraph, and
1304 the agreement shall be fully binding on any subsequent owner of
1305 the nursing facility if the ownership of the nursing facility is
1306 transferred at any time after the issuance of the certificate of
1307 need. After this written agreement is executed, the Division of
1308 Medicaid and the State Department of Health shall not certify any
1309 of the beds in the nursing facility for participation in the
1310 Medicaid program. If the nursing facility violates the terms of
1311 the written agreement by admitting or keeping in the nursing
1312 facility on a regular or continuing basis any patients who are
1313 participating in the Medicaid program, the State Department of
1314 Health shall revoke the license of the nursing facility, at the
1315 time that the department determines, after a hearing complying
1316 with due process, that the nursing facility has violated the
1317 condition upon which the certificate of need was issued, as
1318 provided in this paragraph and in the written agreement. If the
1319 certificate of need authorized under this paragraph is not issued
1320 within twelve (12) months after July 1, 1998, the department shall
1321 deny the application for the certificate of need and shall not
1322 issue the certificate of need at any time after the twelve-month
1323 period, unless the issuance is contested. If the certificate of
1324 need is issued and substantial construction of the nursing
1325 facility beds has not commenced within eighteen (18) months after
1326 July 1, 1998, the State Department of Health, after a hearing
1327 complying with due process, shall revoke the certificate of need
1328 if it is still outstanding, and the department shall not issue a
1329 license for the nursing facility at any time after the
1330 eighteen-month period. Provided, however, that if the issuance of

1331 the certificate of need is contested, the department shall require
1332 substantial construction of the nursing facility beds within six
1333 (6) months after final adjudication on the issuance of the
1334 certificate of need.

1335 (dd) The department may issue a certificate of need for
1336 the new construction, addition or conversion of skilled nursing
1337 facility beds in Madison County, provided that the recipient of
1338 the certificate of need agrees in writing that the skilled nursing
1339 facility will not at any time participate in the Medicaid program
1340 (Section 43-13-101 et seq.) or admit or keep any patients in the
1341 skilled nursing facility who are participating in the Medicaid
1342 program. This written agreement by the recipient of the
1343 certificate of need shall be fully binding on any subsequent owner
1344 of the skilled nursing facility, if the ownership of the facility
1345 is transferred at any time after the issuance of the certificate
1346 of need. Agreement that the skilled nursing facility will not
1347 participate in the Medicaid program shall be a condition of the
1348 issuance of a certificate of need to any person under this
1349 paragraph (dd), and if such skilled nursing facility at any time
1350 after the issuance of the certificate of need, regardless of the
1351 ownership of the facility, participates in the Medicaid program or
1352 admits or keeps any patients in the facility who are participating
1353 in the Medicaid program, the State Department of Health shall
1354 revoke the certificate of need, if it is still outstanding, and
1355 shall deny or revoke the license of the skilled nursing facility,
1356 at the time that the department determines, after a hearing
1357 complying with due process, that the facility has failed to comply
1358 with any of the conditions upon which the certificate of need was
1359 issued, as provided in this paragraph and in the written agreement
1360 by the recipient of the certificate of need. The total number of
1361 nursing facility beds that may be authorized by any certificate of
1362 need issued under this paragraph (dd) shall not exceed sixty (60)
1363 beds. If the certificate of need authorized under this paragraph
1364 is not issued within twelve (12) months after July 1, 1998, the

1365 department shall deny the application for the certificate of need
1366 and shall not issue the certificate of need at any time after the
1367 twelve-month period, unless the issuance is contested. If the
1368 certificate of need is issued and substantial construction of the
1369 nursing facility beds has not commenced within eighteen (18)
1370 months after July 1, 1998, the State Department of Health, after a
1371 hearing complying with due process, shall revoke the certificate
1372 of need if it is still outstanding, and the department shall not
1373 issue a license for the nursing facility at any time after the
1374 eighteen-month period. Provided, however, that if the issuance of
1375 the certificate of need is contested, the department shall require
1376 substantial construction of the nursing facility beds within six
1377 (6) months after final adjudication on the issuance of the
1378 certificate of need.

1379 (ee) The department may issue a certificate of need for
1380 the new construction, addition or conversion of skilled nursing
1381 facility beds in Leake County, provided that the recipient of the
1382 certificate of need agrees in writing that the skilled nursing
1383 facility will not at any time participate in the Medicaid program
1384 (Section 43-13-101 et seq.) or admit or keep any patients in the
1385 skilled nursing facility who are participating in the Medicaid
1386 program. This written agreement by the recipient of the
1387 certificate of need shall be fully binding on any subsequent owner
1388 of the skilled nursing facility, if the ownership of the facility
1389 is transferred at any time after the issuance of the certificate
1390 of need. Agreement that the skilled nursing facility will not
1391 participate in the Medicaid program shall be a condition of the
1392 issuance of a certificate of need to any person under this
1393 paragraph (ee), and if such skilled nursing facility at any time
1394 after the issuance of the certificate of need, regardless of the
1395 ownership of the facility, participates in the Medicaid program or
1396 admits or keeps any patients in the facility who are participating
1397 in the Medicaid program, the State Department of Health shall
1398 revoke the certificate of need, if it is still outstanding, and

1399 shall deny or revoke the license of the skilled nursing facility,
1400 at the time that the department determines, after a hearing
1401 complying with due process, that the facility has failed to comply
1402 with any of the conditions upon which the certificate of need was
1403 issued, as provided in this paragraph and in the written agreement
1404 by the recipient of the certificate of need. The total number of
1405 nursing facility beds that may be authorized by any certificate of
1406 need issued under this paragraph (ee) shall not exceed sixty (60)
1407 beds. If the certificate of need authorized under this paragraph
1408 is not issued within twelve (12) months after July 1, 1998, the
1409 department shall deny the application for the certificate of need
1410 and shall not issue the certificate of need at any time after the
1411 twelve-month period, unless the issuance is contested. If the
1412 certificate of need is issued and substantial construction of the
1413 nursing facility beds has not commenced within eighteen (18)
1414 months after July 1, 1998, the State Department of Health, after a
1415 hearing complying with due process, shall revoke the certificate
1416 of need if it is still outstanding, and the department shall not
1417 issue a license for the nursing facility at any time after the
1418 eighteen-month period. Provided, however, that if the issuance of
1419 the certificate of need is contested, the department shall require
1420 substantial construction of the nursing facility beds within six
1421 (6) months after final adjudication on the issuance of the
1422 certificate of need.

1423 (ff) The department may issue a certificate of need for
1424 the construction of a municipally-owned nursing facility within
1425 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1426 beds, provided that the recipient of the certificate of need
1427 agrees in writing that the skilled nursing facility will not at
1428 any time participate in the Medicaid program (Section 43-13-101 et
1429 seq.) or admit or keep any patients in the skilled nursing
1430 facility who are participating in the Medicaid program. This
1431 written agreement by the recipient of the certificate of need
1432 shall be fully binding on any subsequent owner of the skilled

1433 nursing facility, if the ownership of the facility is transferred
1434 at any time after the issuance of the certificate of need.
1435 Agreement that the skilled nursing facility will not participate
1436 in the Medicaid program shall be a condition of the issuance of a
1437 certificate of need to any person under this paragraph (ff), and
1438 if such skilled nursing facility at any time after the issuance of
1439 the certificate of need, regardless of the ownership of the
1440 facility, participates in the Medicaid program or admits or keeps
1441 any patients in the facility who are participating in the Medicaid
1442 program, the State Department of Health shall revoke the
1443 certificate of need, if it is still outstanding, and shall deny or
1444 revoke the license of the skilled nursing facility, at the time
1445 that the department determines, after a hearing complying with due
1446 process, that the facility has failed to comply with any of the
1447 conditions upon which the certificate of need was issued, as
1448 provided in this paragraph and in the written agreement by the
1449 recipient of the certificate of need. The provision of Section
1450 43-7-193(1) regarding substantial compliance of the projection of
1451 need as reported in the current State Health Plan is waived for
1452 the purposes of this paragraph. If the certificate of need
1453 authorized under this paragraph is not issued within twelve (12)
1454 months after July 1, 1998, the department shall deny the
1455 application for the certificate of need and shall not issue the
1456 certificate of need at any time after the twelve-month period,
1457 unless the issuance is contested. If the certificate of need is
1458 issued and substantial construction of the nursing facility beds
1459 has not commenced within eighteen (18) months after July 1, 1998,
1460 the State Department of Health, after a hearing complying with due
1461 process, shall revoke the certificate of need if it is still
1462 outstanding, and the department shall not issue a license for the
1463 nursing facility at any time after the eighteen-month period.
1464 Provided, however, that if the issuance of the certificate of need
1465 is contested, the department shall require substantial
1466 construction of the nursing facility beds within six (6) months

1467 after final adjudication on the issuance of the certificate of
1468 need.

1469 (qq) (i) Beginning on July 1, 1999, the State
1470 Department of Health may issue a certificate of need during each
1471 of the next two (2) fiscal years for the construction or expansion
1472 of nursing facility beds or the conversion of other beds to
1473 nursing facility beds in each county of the state having an
1474 additional nursing facility bed need of fifty (50) beds or more
1475 according to the 1998 State Health Plan, not to exceed sixty (60)
1476 beds in any county and subject to the restrictions on
1477 participation in the Medicaid program prescribed in subparagraph
1478 (ii). The certificate of need issued for nursing facility beds in
1479 such counties shall not exceed thirteen (13) during fiscal year
1480 ending June 30, 2000, and shall not exceed thirteen (13) during
1481 fiscal year ending June 30, 2001, and shall first be available for
1482 nursing facility beds in the county in the state having the
1483 highest need for those beds, as shown in the 1998 State Health
1484 Plan. If there are no applications for a certificate of need for
1485 nursing facility beds in the county having the highest need for
1486 those beds by the date specified by the department, then the
1487 certificate of need shall be available for nursing facility beds
1488 in other counties in the state in descending order of the need for
1489 those beds, from the county with the second highest need to the
1490 county with the lowest need, until an application is received for
1491 nursing facility beds in an eligible county in the state. In the
1492 event the department reaches the end of the list of eligible
1493 counties during the two-year period, the department shall again
1494 determine the counties of the state having an additional nursing
1495 facility bed need of fifty (50) beds or more, and such
1496 certificates of need shall be available for nursing facility beds
1497 in descending order of the need for those beds.

1498 (ii) The recipient of any certificate of need
1499 issued under authority of this paragraph (qq) shall agree in
1500 writing that no more than forty (40) of the additional beds

1501 authorized in the certificate of need will be certified for
1502 participation in the Medicaid program (Section 43-13-101 et seq.),
1503 and that no claim will be submitted for Medicaid reimbursement for
1504 more than forty (40) patients in the nursing facility in any day
1505 or for any patient in the nursing facility who is in a bed that is
1506 not Medicaid-certified. This written agreement by the recipient
1507 of the certificate of need shall be a condition of the issuance of
1508 the certificate of need under this paragraph, and the agreement
1509 shall be fully binding on any subsequent owner of the nursing
1510 facility if the ownership of the nursing facility is transferred
1511 at any time after the issuance of the certificate of need. After
1512 this written agreement is executed, the Division of Medicaid and
1513 the State Department of Health shall not certify more than forty
1514 (40) of the beds in the nursing facility for participation in the
1515 Medicaid program. If the nursing facility violates the terms of
1516 the written agreement by admitting or keeping in the nursing
1517 facility on a regular or continuing basis more than forty (40)
1518 patients who are participating in the Medicaid program, the State
1519 Department of Health shall revoke the license of the nursing
1520 facility, at the time that the department determines, after a
1521 hearing complying with due process, that the nursing facility has
1522 violated the condition upon which the certificate of need was
1523 issued, as provided in this paragraph and in the written
1524 agreement. If the nursing facility or nursing facility beds
1525 authorized by the certificate of need issued under this paragraph
1526 are not constructed, expended or converted and fully operational
1527 within thirty-six (36) months after issuance of the certificate,
1528 the State Department of Health, after a hearing complying with due
1529 process, shall revoke the certificate of need, if it is still
1530 outstanding, and shall not issue a license for the nursing
1531 facility or nursing facility beds at any time after the expiration
1532 of the thirty-six-month period.

1533 (3) If the holder of the certificate of need that was issued
1534 before January 1, 1990, for the construction of a nursing home in

1535 Claiborne County has not substantially undertaken commencement of
1536 construction by completing site works and pouring foundations and
1537 the floor slab of a nursing home in Claiborne County before May 1,
1538 1990, as determined by the department, then the department shall
1539 transfer such certificate of need to the Board of Supervisors of
1540 Claiborne County upon the effective date of this subsection (3).
1541 If the certificate of need is transferred to the board of
1542 supervisors, it shall be valid for a period of twelve (12) months
1543 and shall authorize the construction of a sixty-bed nursing home
1544 on county-owned property or the conversion of vacant hospital beds
1545 in the county hospital not to exceed sixty (60) beds.

1546 (4) The State Department of Health may grant approval for
1547 and issue certificates of need to any person proposing the new
1548 construction of, addition to, conversion of beds of or expansion
1549 of any health care facility defined in subparagraph (x)
1550 (psychiatric residential treatment facility) of Section
1551 41-7-173(h). The total number of beds which may be authorized by
1552 such certificates of need shall not exceed two hundred
1553 seventy-four (274) beds for the entire state.

1554 (a) Of the total number of beds authorized under this
1555 subsection, the department shall issue a certificate of need to a
1556 privately owned psychiatric residential treatment facility in
1557 Simpson County for the conversion of sixteen (16) intermediate
1558 care facility for the mentally retarded (ICF-MR) beds to
1559 psychiatric residential treatment facility beds, provided that
1560 facility agrees in writing that the facility shall give priority
1561 for the use of those sixteen (16) beds to Mississippi residents
1562 who are presently being treated in out-of-state facilities.

1563 (b) Of the total number of beds authorized under this
1564 subsection, the department may issue a certificate or certificates
1565 of need for the construction or expansion of psychiatric
1566 residential treatment facility beds or the conversion of other
1567 beds to psychiatric residential treatment facility beds in Warren
1568 County, not to exceed sixty (60) psychiatric residential treatment

1569 facility beds, provided that the facility agrees in writing that
1570 no more than thirty (30) of the beds at the psychiatric
1571 residential treatment facility will be certified for participation
1572 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1573 any patients other than those who are participating only in the
1574 Medicaid program of another state, and that no claim will be
1575 submitted to the Division of Medicaid for Medicaid reimbursement
1576 for more than thirty (30) patients in the psychiatric residential
1577 treatment facility in any day or for any patient in the
1578 psychiatric residential treatment facility who is in a bed that is
1579 not Medicaid-certified. This written agreement by the recipient
1580 of the certificate of need shall be a condition of the issuance of
1581 the certificate of need under this paragraph, and the agreement
1582 shall be fully binding on any subsequent owner of the psychiatric
1583 residential treatment facility if the ownership of the facility is
1584 transferred at any time after the issuance of the certificate of
1585 need. After this written agreement is executed, the Division of
1586 Medicaid and the State Department of Health shall not certify more
1587 than thirty (30) of the beds in the psychiatric residential
1588 treatment facility for participation in the Medicaid program for
1589 the use of any patients other than those who are participating
1590 only in the Medicaid program of another state. If the psychiatric
1591 residential treatment facility violates the terms of the written
1592 agreement by admitting or keeping in the facility on a regular or
1593 continuing basis more than thirty (30) patients who are
1594 participating in the Mississippi Medicaid program, the State
1595 Department of Health shall revoke the license of the facility, at
1596 the time that the department determines, after a hearing complying
1597 with due process, that the facility has violated the condition
1598 upon which the certificate of need was issued, as provided in this
1599 paragraph and in the written agreement.

1600 (c) Of the total number of beds authorized under this
1601 subsection, the department shall issue a certificate of need to a
1602 hospital currently operating Medicaid-certified acute psychiatric

1603 beds for adolescents in DeSoto County, for the establishment of a
1604 forty-bed psychiatric residential treatment facility in DeSoto
1605 County, provided that the hospital agrees in writing (i) that the
1606 hospital shall give priority for the use of those forty (40) beds
1607 to Mississippi residents who are presently being treated in
1608 out-of-state facilities, and (ii) that no more than fifteen (15)
1609 of the beds at the psychiatric residential treatment facility will
1610 be certified for participation in the Medicaid program (Section
1611 43-13-101 et seq.), and that no claim will be submitted for
1612 Medicaid reimbursement for more than fifteen (15) patients in the
1613 psychiatric residential treatment facility in any day or for any
1614 patient in the psychiatric residential treatment facility who is
1615 in a bed that is not Medicaid-certified. This written agreement
1616 by the recipient of the certificate of need shall be a condition
1617 of the issuance of the certificate of need under this paragraph,
1618 and the agreement shall be fully binding on any subsequent owner
1619 of the psychiatric residential treatment facility if the ownership
1620 of the facility is transferred at any time after the issuance of
1621 the certificate of need. After this written agreement is
1622 executed, the Division of Medicaid and the State Department of
1623 Health shall not certify more than fifteen (15) of the beds in the
1624 psychiatric residential treatment facility for participation in
1625 the Medicaid program. If the psychiatric residential treatment
1626 facility violates the terms of the written agreement by admitting
1627 or keeping in the facility on a regular or continuing basis more
1628 than fifteen (15) patients who are participating in the Medicaid
1629 program, the State Department of Health shall revoke the license
1630 of the facility, at the time that the department determines, after
1631 a hearing complying with due process, that the facility has
1632 violated the condition upon which the certificate of need was
1633 issued, as provided in this paragraph and in the written
1634 agreement.

1635 (d) Of the total number of beds authorized under this
1636 subsection, the department may issue a certificate or certificates

1637 of need for the construction or expansion of psychiatric
1638 residential treatment facility beds or the conversion of other
1639 beds to psychiatric treatment facility beds, not to exceed thirty
1640 (30) psychiatric residential treatment facility beds, in either
1641 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1642 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

1643 (e) Of the total number of beds authorized under this
1644 subsection (4) the department shall issue a certificate of need to
1645 a privately owned, nonprofit psychiatric residential treatment
1646 facility in Hinds County for an eight-bed expansion of the
1647 facility, provided that the facility agrees in writing that the
1648 facility shall give priority for the use of those eight (8) beds
1649 to Mississippi residents who are presently being treated in
1650 out-of-state facilities.

1651 (5) (a) From and after July 1, 1993, the department shall
1652 not issue a certificate of need to any person for the new
1653 construction of any hospital, psychiatric hospital or chemical
1654 dependency hospital that will contain any child/adolescent
1655 psychiatric or child/adolescent chemical dependency beds, or for
1656 the conversion of any other health care facility to a hospital,
1657 psychiatric hospital or chemical dependency hospital that will
1658 contain any child/adolescent psychiatric or child/adolescent
1659 chemical dependency beds, or for the addition of any
1660 child/adolescent psychiatric or child/adolescent chemical
1661 dependency beds in any hospital, psychiatric hospital or chemical
1662 dependency hospital, or for the conversion of any beds of another
1663 category in any hospital, psychiatric hospital or chemical
1664 dependency hospital to child/adolescent psychiatric or
1665 child/adolescent chemical dependency beds, except as hereinafter
1666 authorized:

1667 (i) The department may issue certificates of need
1668 to any person for any purpose described in this subsection,
1669 provided that the hospital, psychiatric hospital or chemical
1670 dependency hospital does not participate in the Medicaid program

1671 (Section 43-13-101 et seq.) at the time of the application for the
1672 certificate of need and the owner of the hospital, psychiatric
1673 hospital or chemical dependency hospital agrees in writing that
1674 the hospital, psychiatric hospital or chemical dependency hospital
1675 will not at any time participate in the Medicaid program or admit
1676 or keep any patients who are participating in the Medicaid program
1677 in the hospital, psychiatric hospital or chemical dependency
1678 hospital. This written agreement by the recipient of the
1679 certificate of need shall be fully binding on any subsequent owner
1680 of the hospital, psychiatric hospital or chemical dependency
1681 hospital, if the ownership of the facility is transferred at any
1682 time after the issuance of the certificate of need. Agreement
1683 that the hospital, psychiatric hospital or chemical dependency
1684 hospital will not participate in the Medicaid program shall be a
1685 condition of the issuance of a certificate of need to any person
1686 under this subparagraph (a)(i), and if such hospital, psychiatric
1687 hospital or chemical dependency hospital at any time after the
1688 issuance of the certificate of need, regardless of the ownership
1689 of the facility, participates in the Medicaid program or admits or
1690 keeps any patients in the hospital, psychiatric hospital or
1691 chemical dependency hospital who are participating in the Medicaid
1692 program, the State Department of Health shall revoke the
1693 certificate of need, if it is still outstanding, and shall deny or
1694 revoke the license of the hospital, psychiatric hospital or
1695 chemical dependency hospital, at the time that the department
1696 determines, after a hearing complying with due process, that the
1697 hospital, psychiatric hospital or chemical dependency hospital has
1698 failed to comply with any of the conditions upon which the
1699 certificate of need was issued, as provided in this subparagraph
1700 and in the written agreement by the recipient of the certificate
1701 of need.

1702 (ii) The department may issue a certificate of
1703 need for the conversion of existing beds in a county hospital in
1704 Choctaw County from acute care beds to child/adolescent chemical

1705 dependency beds. For purposes of this paragraph, the provisions
1706 of Section 41-7-193(1) requiring substantial compliance with the
1707 projection of need as reported in the current State Health Plan is
1708 waived. The total number of beds that may be authorized under
1709 authority of this paragraph shall not exceed twenty (20) beds.
1710 There shall be no prohibition or restrictions on participation in
1711 the Medicaid program (Section 43-13-101 et seq.) for the hospital
1712 receiving the certificate of need authorized under this
1713 subparagraph (a)(ii) or for the beds converted pursuant to the
1714 authority of that certificate of need.

1715 (iii) The department may issue a certificate or
1716 certificates of need for the construction or expansion of
1717 child/adolescent psychiatric beds or the conversion of other beds
1718 to child/adolescent psychiatric beds in Warren County. For
1719 purposes of this subparagraph, the provisions of Section
1720 41-7-193(1) requiring substantial compliance with the projection
1721 of need as reported in the current State Health Plan are waived.
1722 The total number of beds that may be authorized under the
1723 authority of this subparagraph shall not exceed twenty (20) beds.

1724 There shall be no prohibition or restrictions on participation in
1725 the Medicaid program (Section 43-13-101 et seq.) for the person
1726 receiving the certificate of need authorized under this
1727 subparagraph (a)(iii) or for the beds converted pursuant to the
1728 authority of that certificate of need.

1729 (iv) The department shall issue a certificate of
1730 need to the Region 7 Mental Health/Retardation Commission for the
1731 construction or expansion of child/adolescent psychiatric beds or
1732 the conversion of other beds to child/adolescent psychiatric beds
1733 in any of the counties served by the commission. For purposes of
1734 this subparagraph, the provisions of Section 41-7-193(1) requiring
1735 substantial compliance with the projection of need as reported in
1736 the current State Health Plan is waived. The total number of beds
1737 that may be authorized under the authority of this subparagraph
1738 shall not exceed twenty (20) beds. There shall be no prohibition

1739 or restrictions on participation in the Medicaid program (Section
1740 43-13-101 et seq.) for the person receiving the certificate of
1741 need authorized under this subparagraph (a)(iv) or for the beds
1742 converted pursuant to the authority of that certificate of need.

1743 (v) The department may issue a certificate of need
1744 to any county hospital located in Leflore County for the
1745 construction or expansion of adult psychiatric beds or the
1746 conversion of other beds to adult psychiatric beds, not to exceed
1747 twenty (20) beds, provided that the recipient of the certificate
1748 of need agrees in writing that the adult psychiatric beds will not
1749 at any time be certified for participation in the Medicaid program
1750 and that the hospital will not admit or keep any patients who are
1751 participating in the Medicaid program in any of such adult
1752 psychiatric beds. This written agreement by the recipient of the
1753 certificate of need shall be fully binding on any subsequent owner
1754 of the hospital if the ownership of the hospital is transferred at
1755 any time after the issuance of the certificate of need. Agreement
1756 that the adult psychiatric beds will not be certified for
1757 participation in the Medicaid program shall be a condition of the
1758 issuance of a certificate of need to any person under this
1759 subparagraph (a)(v), and if such hospital at any time after the
1760 issuance of the certificate of need, regardless of the ownership
1761 of the hospital, has any of such adult psychiatric beds certified
1762 for participation in the Medicaid program or admits or keeps any
1763 Medicaid patients in such adult psychiatric beds, the State
1764 Department of Health shall revoke the certificate of need, if it
1765 is still outstanding, and shall deny or revoke the license of the
1766 hospital at the time that the department determines, after a
1767 hearing complying with due process, that the hospital has failed
1768 to comply with any of the conditions upon which the certificate of
1769 need was issued, as provided in this subparagraph and in the
1770 written agreement by the recipient of the certificate of need.

1771 (b) From and after July 1, 1990, no hospital,
1772 psychiatric hospital or chemical dependency hospital shall be

1773 authorized to add any child/adolescent psychiatric or
1774 child/adolescent chemical dependency beds or convert any beds of
1775 another category to child/adolescent psychiatric or
1776 child/adolescent chemical dependency beds without a certificate of
1777 need under the authority of subsection (1)(c) of this section.

1778 (6) The department may issue a certificate of need to a
1779 county hospital in Winston County for the conversion of fifteen
1780 (15) acute care beds to geriatric psychiatric care beds.

1781 (7) The State Department of Health shall issue a certificate
1782 of need to a Mississippi corporation qualified to manage a
1783 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1784 Harrison County, not to exceed eighty (80) beds, including any
1785 necessary renovation or construction required for licensure and
1786 certification, provided that the recipient of the certificate of
1787 need agrees in writing that the long-term care hospital will not
1788 at any time participate in the Medicaid program (Section 43-13-101
1789 et seq.) or admit or keep any patients in the long-term care
1790 hospital who are participating in the Medicaid program. This
1791 written agreement by the recipient of the certificate of need
1792 shall be fully binding on any subsequent owner of the long-term
1793 care hospital, if the ownership of the facility is transferred at
1794 any time after the issuance of the certificate of need. Agreement
1795 that the long-term care hospital will not participate in the
1796 Medicaid program shall be a condition of the issuance of a
1797 certificate of need to any person under this subsection (7), and
1798 if such long-term care hospital at any time after the issuance of
1799 the certificate of need, regardless of the ownership of the
1800 facility, participates in the Medicaid program or admits or keeps
1801 any patients in the facility who are participating in the Medicaid
1802 program, the State Department of Health shall revoke the
1803 certificate of need, if it is still outstanding, and shall deny or
1804 revoke the license of the long-term care hospital, at the time
1805 that the department determines, after a hearing complying with due
1806 process, that the facility has failed to comply with any of the

1807 conditions upon which the certificate of need was issued, as
1808 provided in this paragraph and in the written agreement by the
1809 recipient of the certificate of need. For purposes of this
1810 paragraph, the provision of Section 41-7-193(1) requiring
1811 substantial compliance with the projection of need as reported in
1812 the current State Health Plan is hereby waived.

1813 (8) The State Department of Health may issue a certificate
1814 of need to any hospital in the state to utilize a portion of its
1815 beds for the "swing-bed" concept. Any such hospital must be in
1816 conformance with the federal regulations regarding such swing-bed
1817 concept at the time it submits its application for a certificate
1818 of need to the State Department of Health, except that such
1819 hospital may have more licensed beds or a higher average daily
1820 census (ADC) than the maximum number specified in federal
1821 regulations for participation in the swing-bed program. Any
1822 hospital meeting all federal requirements for participation in the
1823 swing-bed program which receives such certificate of need shall
1824 render services provided under the swing-bed concept to any
1825 patient eligible for Medicare (Title XVIII of the Social Security
1826 Act) who is certified by a physician to be in need of such
1827 services, and no such hospital shall permit any patient who is
1828 eligible for both Medicaid and Medicare or eligible only for
1829 Medicaid to stay in the swing beds of the hospital for more than
1830 thirty (30) days per admission unless the hospital receives prior
1831 approval for such patient from the Division of Medicaid, Office of
1832 the Governor. Any hospital having more licensed beds or a higher
1833 average daily census (ADC) than the maximum number specified in
1834 federal regulations for participation in the swing-bed program
1835 which receives such certificate of need shall develop a procedure
1836 to insure that before a patient is allowed to stay in the swing
1837 beds of the hospital, there are no vacant nursing home beds
1838 available for that patient located within a fifty-mile radius of
1839 the hospital. When any such hospital has a patient staying in the
1840 swing beds of the hospital and the hospital receives notice from a

1841 nursing home located within such radius that there is a vacant bed
1842 available for that patient, the hospital shall transfer the
1843 patient to the nursing home within a reasonable time after receipt
1844 of the notice. Any hospital which is subject to the requirements
1845 of the two (2) preceding sentences of this paragraph may be
1846 suspended from participation in the swing-bed program for a
1847 reasonable period of time by the State Department of Health if the
1848 department, after a hearing complying with due process, determines
1849 that the hospital has failed to comply with any of those
1850 requirements.

1851 (9) The Department of Health shall not grant approval for or
1852 issue a certificate of need to any person proposing the new
1853 construction of, addition to or expansion of a health care
1854 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1855 (10) The Department of Health shall not grant approval for
1856 or issue a certificate of need to any person proposing the
1857 establishment of, or expansion of the currently approved territory
1858 of, or the contracting to establish a home office, subunit or
1859 branch office within the space operated as a health care facility
1860 as defined in Section 41-7-173(h)(i) through (viii) by a health
1861 care facility as defined in subparagraph (ix) of Section
1862 41-7-173(h).

1863 (11) Health care facilities owned and/or operated by the
1864 state or its agencies are exempt from the restraints in this
1865 section against issuance of a certificate of need if such addition
1866 or expansion consists of repairing or renovation necessary to
1867 comply with the state licensure law. This exception shall not
1868 apply to the new construction of any building by such state
1869 facility. This exception shall not apply to any health care
1870 facilities owned and/or operated by counties, municipalities,
1871 districts, unincorporated areas, other defined persons, or any
1872 combination thereof.

1873 (12) The new construction, renovation or expansion of or
1874 addition to any health care facility defined in subparagraph (ii)

1875 (psychiatric hospital), subparagraph (iv) (skilled nursing
1876 facility), subparagraph (vi) (intermediate care facility),
1877 subparagraph (viii) (intermediate care facility for the mentally
1878 retarded) and subparagraph (x) (psychiatric residential treatment
1879 facility) of Section 41-7-173(h) which is owned by the State of
1880 Mississippi and under the direction and control of the State
1881 Department of Mental Health, and the addition of new beds or the
1882 conversion of beds from one category to another in any such
1883 defined health care facility which is owned by the State of
1884 Mississippi and under the direction and control of the State
1885 Department of Mental Health, shall not require the issuance of a
1886 certificate of need under Section 41-7-171 et seq.,
1887 notwithstanding any provision in Section 41-7-171 et seq. to the
1888 contrary.

1889 (13) The new construction, renovation or expansion of or
1890 addition to any veterans homes or domiciliaries for eligible
1891 veterans of the State of Mississippi as authorized under Section
1892 35-1-19 shall not require the issuance of a certificate of need,
1893 notwithstanding any provision in Section 41-7-171 et seq. to the
1894 contrary.

1895 (14) The new construction of a nursing facility or nursing
1896 facility beds or the conversion of other beds to nursing facility
1897 beds shall not require the issuance of a certificate of need,
1898 notwithstanding any provision in Section 41-7-171 et seq. to the
1899 contrary, if the conditions of this subsection are met.

1900 (a) Before any construction or conversion may be
1901 undertaken without a certificate of need, the owner of the nursing
1902 facility, in the case of an existing facility, or the applicant to
1903 construct a nursing facility, in the case of new construction,
1904 first must file a written notice of intent and sign a written
1905 agreement with the State Department of Health that the entire
1906 nursing facility will not at any time participate in or have any
1907 beds certified for participation in the Medicaid program (Section
1908 43-13-101 et seq.), will not admit or keep any patients in the

1909 nursing facility who are participating in the Medicaid program,
1910 and will not submit any claim for Medicaid reimbursement for any
1911 patient in the facility. This written agreement by the owner or
1912 applicant shall be a condition of exercising the authority under
1913 this subsection without a certificate of need, and the agreement
1914 shall be fully binding on any subsequent owner of the nursing
1915 facility if the ownership of the facility is transferred at any
1916 time after the agreement is signed. After the written agreement
1917 is signed, the Division of Medicaid and the State Department of
1918 Health shall not certify any beds in the nursing facility for
1919 participation in the Medicaid program. If the nursing facility
1920 violates the terms of the written agreement by participating in
1921 the Medicaid program, having any beds certified for participation
1922 in the Medicaid program, admitting or keeping any patient in the
1923 facility who is participating in the Medicaid program, or
1924 submitting any claim for Medicaid reimbursement for any patient in
1925 the facility, the State Department of Health shall revoke the
1926 license of the nursing facility at the time that the department
1927 determines, after a hearing complying with due process, that the
1928 facility has violated the terms of the written agreement.

1929 (b) For the purposes of this subsection, participation
1930 in the Medicaid program by a nursing facility includes Medicaid
1931 reimbursement of coinsurance and deductibles for recipients who
1932 are qualified Medicare beneficiaries and/or those who are dually
1933 eligible. Any nursing facility exercising the authority under
1934 this subsection may not bill or submit a claim to the Division of
1935 Medicaid for services to qualified Medicare beneficiaries and/or
1936 those who are dually eligible.

1937 (c) The new construction of a nursing facility or
1938 nursing facility beds or the conversion of other beds to nursing
1939 facility beds described in this section must be either a part of a
1940 completely new continuing care retirement community, as described
1941 in the latest edition of the Mississippi State Health Plan, or an
1942 addition to existing personal care and independent living

1943 components, and so that the completed project will be a continuing
1944 care retirement community, containing (i) independent living
1945 accommodations, (ii) personal care beds, and (iii) the nursing
1946 home facility beds. The three (3) components must be located on a
1947 single site and be operated as one (1) inseparable facility. The
1948 nursing facility component must contain a minimum of thirty (30)
1949 beds. Any nursing facility beds authorized by this section will
1950 not be counted against the bed need set forth in the State Health
1951 Plan, as identified in Section 41-7-171, et seq.

1952 This subsection (14) shall stand repealed from and after July
1953 1, 2001.

1954 SECTION 3. This act shall take effect and be in force from
1955 and after its passage.