

By: Senator(s) Woodfield

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2701

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

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

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

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

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

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

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

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

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

38 (i) Open heart surgery services;

39 (ii) Cardiac catheterization services;

40 (iii) Comprehensive inpatient rehabilitation
41 services;

42 (iv) Licensed psychiatric services;

43 (v) Licensed chemical dependency services;

44 (vi) Radiation therapy services;

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

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

49 (ix) Home health services;

50 (x) Swing-bed services;

51 (xi) Ambulatory surgical services;

52 (xii) Magnetic resonance imaging services;

53 (xiii) Extracorporeal shock wave lithotripsy
54 services;

55 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

212 (k) The department may issue certificates of need in
213 Harrison County to provide skilled nursing home care for
214 Alzheimer's Disease patients and other patients, not to exceed one
215 hundred fifty (150) beds * * *. * * * From and after July 1,
216 1999, there shall be no prohibition or restrictions on
217 participation in the Medicaid program (Section 43-13-101 et seq.)
218 for the beds in the nursing facilities that were authorized under
219 this paragraph (k).

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

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

230 (n) The department may issue a certificate of need to
231 any intermediate care facility as defined in Section
232 41-7-173(h)(vi) in Marion County which has fewer than sixty (60)
233 beds, for making additions to or expansion or replacement of the
234 existing facility in order to increase the number of its beds to
235 not more than sixty (60) beds. For the purposes of this
236 paragraph, the provision of Section 41-7-193(1) requiring

237 substantial compliance with the projection of need as reported in
238 the current State Health Plan is waived. The total number of
239 nursing home beds that may be authorized by any certificate of
240 need issued under this paragraph shall not exceed twenty-five (25)
241 beds.

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

248 (p) The department shall issue a certificate of need
249 for the construction, expansion or conversion of nursing home
250 care, not to exceed thirty-three (33) beds, in Pontotoc County.
251 The provisions of Section 41-7-193(1) regarding substantial
252 compliance with the projection of need as reported in the current
253 State Health Plan are hereby waived as to such construction,
254 expansion or conversion.

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

261 (r) The department may issue a certificate of need for
262 the addition to or expansion of any skilled nursing facility that
263 is part of an existing continuing care retirement community
264 located in Madison County, provided that the recipient of the
265 certificate of need agrees in writing that the skilled nursing
266 facility will not at any time participate in the Medicaid program
267 (Section 43-13-101 et seq.) or admit or keep any patients in the
268 skilled nursing facility who are participating in the Medicaid
269 program. This written agreement by the recipient of the
270 certificate of need shall be fully binding on any subsequent owner

271 of the skilled nursing facility, if the ownership of the facility
272 is transferred at any time after the issuance of the certificate
273 of need. Agreement that the skilled nursing facility will not
274 participate in the Medicaid program shall be a condition of the
275 issuance of a certificate of need to any person under this
276 paragraph (r), and if such skilled nursing facility at any time
277 after the issuance of the certificate of need, regardless of the
278 ownership of the facility, participates in the Medicaid program or
279 admits or keeps any patients in the facility who are participating
280 in the Medicaid program, the State Department of Health shall
281 revoke the certificate of need, if it is still outstanding, and
282 shall deny or revoke the license of the skilled nursing facility,
283 at the time that the department determines, after a hearing
284 complying with due process, that the facility has failed to comply
285 with any of the conditions upon which the certificate of need was
286 issued, as provided in this paragraph and in the written agreement
287 by the recipient of the certificate of need. The total number of
288 beds that may be authorized under the authority of this paragraph
289 (r) shall not exceed sixty (60) beds.

290 (s) The State Department of Health may issue a
291 certificate of need to any hospital located in DeSoto County for
292 the new construction of a skilled nursing facility, not to exceed
293 one hundred twenty (120) beds, in DeSoto County, provided that the
294 recipient of the certificate of need agrees in writing that no
295 more than thirty (30) of the beds in the skilled nursing facility
296 will be certified for participation in the Medicaid program
297 (Section 43-13-101 et seq.), and that no claim will be submitted
298 for Medicaid reimbursement for more than thirty (30) patients in
299 the facility in any day or for any patient in the facility who is
300 in a bed that is not Medicaid-certified. This written agreement
301 by the recipient of the certificate of need shall be a condition
302 of the issuance of the certificate of need under this paragraph,
303 and the agreement shall be fully binding on any subsequent owner
304 of the skilled nursing facility if the ownership of the facility

305 is transferred at any time after the issuance of the certificate
306 of need. After this written agreement is executed, the Division
307 of Medicaid and the State Department of Health shall not certify
308 more than thirty (30) of the beds in the skilled nursing facility
309 for participation in the Medicaid program. If the skilled nursing
310 facility violates the terms of the written agreement by admitting
311 or keeping in the facility on a regular or continuing basis more
312 than thirty (30) patients who are participating in the Medicaid
313 program, the State Department of Health shall revoke the license
314 of the facility, at the time that the department determines, after
315 a hearing complying with due process, that the facility has
316 violated the condition upon which the certificate of need was
317 issued, as provided in this paragraph and in the written
318 agreement. If the skilled nursing facility authorized by the
319 certificate of need issued under this paragraph is not constructed
320 and fully operational within eighteen (18) months after July 1,
321 1994, the State Department of Health, after a hearing complying
322 with due process, shall revoke the certificate of need, if it is
323 still outstanding, and shall not issue a license for the facility
324 at any time after the expiration of the eighteen-month period.

325 (t) The State Department of Health may issue a
326 certificate of need for the construction of a nursing facility or
327 the conversion of beds to nursing facility beds at a personal care
328 facility for the elderly in Lowndes County that is owned and
329 operated by a Mississippi nonprofit corporation, not to exceed
330 sixty (60) beds, provided that the recipient of the certificate of
331 need agrees in writing that no more than thirty (30) of the beds
332 at the facility will be certified for participation in the
333 Medicaid program (Section 43-13-101 et seq.), and that no claim
334 will be submitted for Medicaid reimbursement for more than thirty
335 (30) patients in the facility in any month or for any patient in
336 the facility who is in a bed that is not Medicaid-certified. This
337 written agreement by the recipient of the certificate of need
338 shall be a condition of the issuance of the certificate of need

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

362 (u) The State Department of Health may issue a
363 certificate of need for conversion of a county hospital facility
364 in Itawamba County to a nursing facility, not to exceed sixty (60)
365 beds, including any necessary construction, renovation or
366 expansion, provided that the recipient of the certificate of need
367 agrees in writing that no more than thirty (30) of the beds at the
368 facility will be certified for participation in the Medicaid
369 program (Section 43-13-101 et seq.), and that no claim will be
370 submitted for Medicaid reimbursement for more than thirty (30)
371 patients in the facility in any day or for any patient in the
372 facility who is in a bed that is not Medicaid-certified. This

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

397 (v) The State Department of Health may issue a
398 certificate of need for the construction or expansion of nursing
399 facility beds or the conversion of other beds to nursing facility
400 beds in either Hinds, Madison or Rankin Counties, not to exceed
401 sixty (60) beds, provided that the recipient of the certificate of
402 need agrees in writing that no more than thirty (30) of the beds
403 at the nursing facility will be certified for participation in the
404 Medicaid program (Section 43-13-101 et seq.), and that no claim
405 will be submitted for Medicaid reimbursement for more than thirty
406 (30) patients in the nursing facility in any day or for any

407 patient in the nursing facility who is in a bed that is not
408 Medicaid-certified. This written agreement by the recipient of
409 the certificate of need shall be a condition of the issuance of
410 the certificate of need under this paragraph, and the agreement
411 shall be fully binding on any subsequent owner of the nursing
412 facility if the ownership of the nursing facility is transferred
413 at any time after the issuance of the certificate of need. After
414 this written agreement is executed, the Division of Medicaid and
415 the State Department of Health shall not certify more than thirty
416 (30) of the beds in the nursing facility for participation in the
417 Medicaid program. If the nursing facility violates the terms of
418 the written agreement by admitting or keeping in the nursing
419 facility on a regular or continuing basis more than thirty (30)
420 patients who are participating in the Medicaid program, the State
421 Department of Health shall revoke the license of the nursing
422 facility, at the time that the department determines, after a
423 hearing complying with due process, that the nursing facility has
424 violated the condition upon which the certificate of need was
425 issued, as provided in this paragraph and in the written
426 agreement. If the nursing facility or nursing facility beds
427 authorized by the certificate of need issued under this paragraph
428 are not constructed, expanded or converted and fully operational
429 within thirty-six (36) months after July 1, 1994, the State
430 Department of Health, after a hearing complying with due process,
431 shall revoke the certificate of need, if it is still outstanding,
432 and shall not issue a license for the nursing facility or nursing
433 facility beds at any time after the expiration of the
434 thirty-six-month period.

435 (w) The State Department of Health may issue a
436 certificate of need for the construction or expansion of nursing
437 facility beds or the conversion of other beds to nursing facility
438 beds in either Hancock, Harrison or Jackson Counties, not to
439 exceed sixty (60) beds, provided that the recipient of the
440 certificate of need agrees in writing that no more than thirty

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

473 (x) The department may issue a certificate of need for
474 the new construction of a skilled nursing facility in Leake

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

509 outstanding, and shall not issue a license for the skilled nursing
510 facility at any time after the expiration of the eighteen-month
511 period.

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

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

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

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

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

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

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

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

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

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

679 substantial construction of the nursing facility beds within six
680 (6) months after final adjudication on the issuance of the
681 certificate of need.

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

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

726 (ff) The department may issue a certificate of need for
727 the construction of a municipally-owned nursing facility within
728 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
729 beds, provided that the recipient of the certificate of need
730 agrees in writing that the skilled nursing facility will not at
731 any time participate in the Medicaid program (Section 43-13-101 et
732 seq.) or admit or keep any patients in the skilled nursing
733 facility who are participating in the Medicaid program. This
734 written agreement by the recipient of the certificate of need
735 shall be fully binding on any subsequent owner of the skilled
736 nursing facility, if the ownership of the facility is transferred
737 at any time after the issuance of the certificate of need.

738 Agreement that the skilled nursing facility will not participate
739 in the Medicaid program shall be a condition of the issuance of a
740 certificate of need to any person under this paragraph (ff), and
741 if such skilled nursing facility at any time after the issuance of
742 the certificate of need, regardless of the ownership of the
743 facility, participates in the Medicaid program or admits or keeps
744 any patients in the facility who are participating in the Medicaid
745 program, the State Department of Health shall revoke the
746 certificate of need, if it is still outstanding, and shall deny or

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

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

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

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

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

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

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

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

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

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

882 (e) Of the total number of beds authorized under this

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

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

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

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

941 (ii) The department may issue a certificate of
942 need for the conversion of existing beds in a county hospital in
943 Choctaw County from acute care beds to child/adolescent chemical
944 dependency beds. For purposes of this paragraph, the provisions
945 of Section 41-7-193(1) requiring substantial compliance with the
946 projection of need as reported in the current State Health Plan is
947 waived. The total number of beds that may be authorized under
948 authority of this paragraph shall not exceed twenty (20) beds.
949 There shall be no prohibition or restrictions on participation in
950 the Medicaid program (Section 43-13-101 et seq.) for the hospital

951 receiving the certificate of need authorized under this
952 subparagraph (a)(ii) or for the beds converted pursuant to the
953 authority of that certificate of need.

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

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

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

982 (v) The department may issue a certificate of need
983 to any county hospital located in Leflore County for the
984 construction or expansion of adult psychiatric beds or the

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

1010 (b) From and after July 1, 1990, no hospital,
1011 psychiatric hospital or chemical dependency hospital shall be
1012 authorized to add any child/adolescent psychiatric or
1013 child/adolescent chemical dependency beds or convert any beds of
1014 another category to child/adolescent psychiatric or
1015 child/adolescent chemical dependency beds without a certificate of
1016 need under the authority of subsection (1)(c) of this section.

1017 (6) The department may issue a certificate of need to a
1018 county hospital in Winston County for the conversion of fifteen

1019 (15) acute care beds to geriatric psychiatric care beds.

1020 (7) The State Department of Health shall issue a certificate
1021 of need to a Mississippi corporation qualified to manage a
1022 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1023 Harrison County, not to exceed eighty (80) beds, including any
1024 necessary renovation or construction required for licensure and
1025 certification, provided that the recipient of the certificate of
1026 need agrees in writing that the long-term care hospital will not
1027 at any time participate in the Medicaid program (Section 43-13-101
1028 et seq.) or admit or keep any patients in the long-term care
1029 hospital who are participating in the Medicaid program. This
1030 written agreement by the recipient of the certificate of need
1031 shall be fully binding on any subsequent owner of the long-term
1032 care hospital, if the ownership of the facility is transferred at
1033 any time after the issuance of the certificate of need. Agreement
1034 that the long-term care hospital will not participate in the
1035 Medicaid program shall be a condition of the issuance of a
1036 certificate of need to any person under this subsection (7), and
1037 if such long-term care hospital at any time after the issuance of
1038 the certificate of need, regardless of the ownership of the
1039 facility, participates in the Medicaid program or admits or keeps
1040 any patients in the facility who are participating in the Medicaid
1041 program, the State Department of Health shall revoke the
1042 certificate of need, if it is still outstanding, and shall deny or
1043 revoke the license of the long-term care hospital, at the time
1044 that the department determines, after a hearing complying with due
1045 process, that the facility has failed to comply with any of the
1046 conditions upon which the certificate of need was issued, as
1047 provided in this paragraph and in the written agreement by the
1048 recipient of the certificate of need. For purposes of this
1049 paragraph, the provision of Section 41-7-193(1) requiring
1050 substantial compliance with the projection of need as reported in
1051 the current State Health Plan is hereby waived.

1052 (8) The State Department of Health may issue a certificate

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

1087 department, after a hearing complying with due process, determines
1088 that the hospital has failed to comply with any of those
1089 requirements.

1090 (9) The Department of Health shall not grant approval for or
1091 issue a certificate of need to any person proposing the new
1092 construction of, addition to or expansion of a health care
1093 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1094 (10) The Department of Health shall not grant approval for
1095 or issue a certificate of need to any person proposing the
1096 establishment of, or expansion of the currently approved territory
1097 of, or the contracting to establish a home office, subunit or
1098 branch office within the space operated as a health care facility
1099 as defined in Section 41-7-173(h)(i) through (viii) by a health
1100 care facility as defined in subparagraph (ix) of Section
1101 41-7-173(h).

1102 (11) Health care facilities owned and/or operated by the
1103 state or its agencies are exempt from the restraints in this
1104 section against issuance of a certificate of need if such addition
1105 or expansion consists of repairing or renovation necessary to
1106 comply with the state licensure law. This exception shall not
1107 apply to the new construction of any building by such state
1108 facility. This exception shall not apply to any health care
1109 facilities owned and/or operated by counties, municipalities,
1110 districts, unincorporated areas, other defined persons, or any
1111 combination thereof.

1112 (12) The new construction, renovation or expansion of or
1113 addition to any health care facility defined in subparagraph (ii)
1114 (psychiatric hospital), subparagraph (iv) (skilled nursing
1115 facility), subparagraph (vi) (intermediate care facility),
1116 subparagraph (viii) (intermediate care facility for the mentally
1117 retarded) and subparagraph (x) (psychiatric residential treatment
1118 facility) of Section 41-7-173(h) which is owned by the State of
1119 Mississippi and under the direction and control of the State
1120 Department of Mental Health, and the addition of new beds or the

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

1128 (13) The new construction, renovation or expansion of or
1129 addition to any veterans homes or domiciliaries for eligible
1130 veterans of the State of Mississippi as authorized under Section
1131 35-1-19 shall not require the issuance of a certificate of need,
1132 notwithstanding any provision in Section 41-7-171 et seq. to the
1133 contrary.

1134 (14) The new construction of a nursing facility or nursing
1135 facility beds or the conversion of other beds to nursing facility
1136 beds shall not require the issuance of a certificate of need,
1137 notwithstanding any provision in Section 41-7-171 et seq. to the
1138 contrary, if the conditions of this subsection are met.

1139 (a) Before any construction or conversion may be
1140 undertaken without a certificate of need, the owner of the nursing
1141 facility, in the case of an existing facility, or the applicant to
1142 construct a nursing facility, in the case of new construction,
1143 first must file a written notice of intent and sign a written
1144 agreement with the State Department of Health that the entire
1145 nursing facility will not at any time participate in or have any
1146 beds certified for participation in the Medicaid program (Section
1147 43-13-101 et seq.), will not admit or keep any patients in the
1148 nursing facility who are participating in the Medicaid program,
1149 and will not submit any claim for Medicaid reimbursement for any
1150 patient in the facility. This written agreement by the owner or
1151 applicant shall be a condition of exercising the authority under
1152 this subsection without a certificate of need, and the agreement
1153 shall be fully binding on any subsequent owner of the nursing
1154 facility if the ownership of the facility is transferred at any

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

1168 (b) For the purposes of this subsection, participation
1169 in the Medicaid program by a nursing facility includes Medicaid
1170 reimbursement of coinsurance and deductibles for recipients who
1171 are qualified Medicare beneficiaries and/or those who are dually
1172 eligible. Any nursing facility exercising the authority under
1173 this subsection may not bill or submit a claim to the Division of
1174 Medicaid for services to qualified Medicare beneficiaries and/or
1175 those who are dually eligible.

1176 (c) The new construction of a nursing facility or
1177 nursing facility beds or the conversion of other beds to nursing
1178 facility beds described in this section must be either a part of a
1179 completely new continuing care retirement community, as described
1180 in the latest edition of the Mississippi State Health Plan, or an
1181 addition to existing personal care and independent living
1182 components, and so that the completed project will be a continuing
1183 care retirement community, containing (i) independent living
1184 accommodations, (ii) personal care beds, and (iii) the nursing
1185 home facility beds. The three (3) components must be located on a
1186 single site and be operated as one (1) inseparable facility. The
1187 nursing facility component must contain a minimum of thirty (30)
1188 beds. Any nursing facility beds authorized by this section will

1189 not be counted against the bed need set forth in the State Health
1190 Plan, as identified in Section 41-7-171, et seq.

1191 This subsection (14) shall stand repealed from and after July
1192 1, 2001.

1193 SECTION 2. This act shall take effect and be in force from
1194 and after its passage.