

By: Senator(s) Canon, Turner

To: Public Health and  
Welfare;  
Appropriations

SENATE BILL NO. 2711

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE NUMBER OF NURSING FACILITY BEDS AUTHORIZED UNDER A  
3 CERTIFICATE OF NEED ISSUED TO A PERSONAL CARE FACILITY FOR THE  
4 ELDERLY LOCATED IN LOWNDES COUNTY, MISSISSIPPI; AND FOR RELATED  
5 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF  
6 MISSISSIPPI:

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

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

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

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

17 (c) A change over a period of two (2) years' time, as  
18 established by the State Department of Health, in existing bed  
19 complement through the addition of more than ten (10) beds or more  
20 than ten percent (10%) of the total bed capacity of a designated  
21 licensed category or subcategory of any health care facility,  
22 whichever is less, from one physical facility or site to another;  
23 the conversion over a period of two (2) years' time, as  
24 established by the State Department of Health, of existing bed  
25 complement of more than ten (10) beds or more than ten percent  
26 (10%) of the total bed capacity of a designated licensed category  
27 or subcategory of any such health care facility, whichever is  
28 less; or the alteration, modernizing or refurbishing of any unit  
29 or department wherein such beds may be located; provided, however,

30 that from and after July 1, 1994, no health care facility shall be  
31 authorized to add any beds or convert any beds to another category  
32 of beds without a certificate of need under the authority of  
33 subsection (1)(c) of this section unless there is a projected need  
34 for such beds in the planning district in which the facility is  
35 located, as reported in the most current State Health Plan;

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

40 (i) Open heart surgery services;

41 (ii) Cardiac catheterization services;

42 (iii) Comprehensive inpatient rehabilitation  
43 services;

44 (iv) Licensed psychiatric services;

45 (v) Licensed chemical dependency services;

46 (vi) Radiation therapy services;

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

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

51 (ix) Home health services;

52 (x) Swing-bed services;

53 (xi) Ambulatory surgical services;

54 (xii) Magnetic resonance imaging services;

55 (xiii) Extracorporeal shock wave lithotripsy  
56 services;

57 (xiv) Long-term care hospital services;

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

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

68 the State Department of Health;

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

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

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

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

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

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

102 with an existing health care facility as defined in subparagraph  
103 (ix) of Section 41-7-173(h).

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

111 (a) The total number of nursing home beds as defined in  
112 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be  
113 authorized by such certificates of need issued during the period  
114 beginning on July 1, 1989, and ending on June 30, 2000, shall not  
115 exceed one thousand five hundred thirty (1,530) beds. The number  
116 of nursing home beds authorized under paragraphs (z), (cc), (dd),  
117 (ee) and (ff) of this subsection (2) shall not be counted in the  
118 limit on the total number of beds provided for in this paragraph  
119 (a).

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

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

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

170 agreement as provided in this paragraph.

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

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

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

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

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

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

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

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

238 facilities is transferred at any time after July 1, 1995. After  
239 these written agreements are executed, the Division of Medicaid  
240 and the State Department of Health shall not certify for  
241 participation in the Medicaid program more than the number of beds  
242 authorized for participation in the Medicaid program under this  
243 paragraph (k) for each respective facility. If any of the health  
244 care facilities violates the terms of the written agreement by  
245 admitting or keeping in the health care facility on a regular or  
246 continuing basis a number of patients that is greater than the  
247 number of beds certified for participation in the Medicaid  
248 program, the State Department of Health shall revoke the license  
249 of the health care facility, at the time that the department  
250 determines, after a hearing complying with due process, that the  
251 health care facility has violated the terms of the written  
252 agreement as provided in this paragraph.

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

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

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



272 nursing home beds that may be authorized by any certificate of  
273 need issued under this paragraph shall not exceed twenty-five (25)  
274 beds.

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

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

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

294 (r) The department may issue a certificate of need for  
295 the addition to or expansion of any skilled nursing facility that  
296 is part of an existing continuing care retirement community  
297 located in Madison County, provided that the recipient of the  
298 certificate of need agrees in writing that the skilled nursing  
299 facility will not at any time participate in the Medicaid program  
300 (Section 43-13-101 et seq.) or admit or keep any patients in the  
301 skilled nursing facility who are participating in the Medicaid  
302 program. This written agreement by the recipient of the  
303 certificate of need 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. Agreement that the skilled nursing facility will not  
307 participate in the Medicaid program shall be a condition of the  
308 issuance of a certificate of need to any person under this  
309 paragraph (r), and if such skilled nursing facility at any time  
310 after the issuance of the certificate of need, regardless of the  
311 ownership of the facility, participates in the Medicaid program or  
312 admits or keeps any patients in the facility who are participating  
313 in the Medicaid program, the State Department of Health shall  
314 revoke the certificate of need, if it is still outstanding, and  
315 shall deny or revoke the license of the skilled nursing facility,  
316 at the time that the department determines, after a hearing  
317 complying with due process, that the facility has failed to comply  
318 with any of the conditions upon which the certificate of need was  
319 issued, as provided in this paragraph and in the written agreement  
320 by the recipient of the certificate of need. The total number of  
321 beds that may be authorized under the authority of this paragraph  
322 (r) shall not exceed sixty (60) beds.

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

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

358 (t) The State Department of Health may issue a  
359 certificate of need for the construction of a nursing facility or  
360 the conversion of beds to nursing facility beds at a personal care  
361 facility for the elderly in Lowndes County that is owned and  
362 operated by a Mississippi nonprofit corporation, not to exceed one  
363 hundred twenty (120) beds, provided that the recipient of the  
364 certificate of need agrees in writing that no more than sixty (60)  
365 of the beds at the facility will be certified for participation in  
366 the Medicaid program (Section 43-13-101 et seq.), and that no  
367 claim will be submitted for Medicaid reimbursement for more than  
368 sixty (60) patients in the facility in any month or for any  
369 patient in the facility who is in a bed that is not  
370 Medicaid-certified. This written agreement by the recipient of  
371 the certificate of need shall be a condition of the issuance of  
372 the certificate of need under this paragraph, and the agreement  
373 shall be fully binding on any subsequent owner of the facility if

374 the ownership of the facility is transferred at any time after the  
375 issuance of the certificate of need. After this written agreement  
376 is executed, the Division of Medicaid and the State Department of  
377 Health shall not certify more than sixty (60) of the beds in the  
378 facility for participation in the Medicaid program. If the  
379 facility violates the terms of the written agreement by admitting  
380 or keeping in the facility on a regular or continuing basis more  
381 than sixty (60) patients who are participating in the Medicaid  
382 program, the State Department of Health shall revoke the license  
383 of the facility, at the time that the department determines, after  
384 a hearing complying with due process, that the facility has  
385 violated the condition upon which the certificate of need was  
386 issued, as provided in this paragraph and in the written  
387 agreement. If the nursing facility or nursing facility beds  
388 authorized by the certificate of need issued under this paragraph  
389 are not constructed or converted and fully operational within  
390 eighteen (18) months after July 1, 1994, the State Department of  
391 Health, after a hearing complying with due process, shall revoke  
392 the certificate of need, if it is still outstanding, and shall not  
393 issue a license for the nursing facility or nursing facility beds  
394 at any time after the expiration of the eighteen-month period.

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

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

430 (v) The State Department of Health may issue a  
431 certificate of need for the construction or expansion of nursing  
432 facility beds or the conversion of other beds to nursing facility  
433 beds in either Hinds, Madison or Rankin Counties, not to exceed  
434 sixty (60) beds, provided that the recipient of the certificate of  
435 need agrees in writing that no more than thirty (30) of the beds  
436 at the nursing facility will be certified for participation in the  
437 Medicaid program (Section 43-13-101 et seq.), and that no claim  
438 will be submitted for Medicaid reimbursement for more than thirty  
439 (30) patients in the nursing facility in any day or for any  
440 patient in the nursing facility who is in a bed that is not  
441 Medicaid-certified. This written agreement by the recipient of

442 the certificate of need shall be a condition of the issuance of  
443 the certificate of need under this paragraph, and the agreement  
444 shall be fully binding on any subsequent owner of the nursing  
445 facility if the ownership of the nursing facility is transferred  
446 at any time after the issuance of the certificate of need. After  
447 this written agreement is executed, the Division of Medicaid and  
448 the State Department of Health shall not certify more than thirty  
449 (30) of the beds in the nursing facility for participation in the  
450 Medicaid program. If the nursing facility violates the terms of  
451 the written agreement by admitting or keeping in the nursing  
452 facility on a regular or continuing basis more than thirty (30)  
453 patients who are participating in the Medicaid program, the State  
454 Department of Health shall revoke the license of the nursing  
455 facility, at the time that the department determines, after a  
456 hearing complying with due process, that the nursing facility has  
457 violated the condition upon which the certificate of need was  
458 issued, as provided in this paragraph and in the written  
459 agreement. If the nursing facility or nursing facility beds  
460 authorized by the certificate of need issued under this paragraph  
461 are not constructed, expanded or converted and fully operational  
462 within thirty-six (36) months after July 1, 1994, the State  
463 Department of Health, after a hearing complying with due process,  
464 shall revoke the certificate of need, if it is still outstanding,  
465 and shall not issue a license for the nursing facility or nursing  
466 facility beds at any time after the expiration of the  
467 thirty-six-month period.

468 (w) The State Department of Health may issue a  
469 certificate of need for the construction or expansion of nursing  
470 facility beds or the conversion of other beds to nursing facility  
471 beds in either Hancock, Harrison or Jackson Counties, not to  
472 exceed sixty (60) beds, provided that the recipient of the  
473 certificate of need agrees in writing that no more than thirty  
474 (30) of the beds at the nursing facility will be certified for  
475 participation in the Medicaid program (Section 43-13-101 et seq.),

476 and that no claim will be submitted for Medicaid reimbursement for  
477 more than thirty (30) patients in the nursing facility in any day  
478 or for any patient in the nursing facility who is in a bed that is  
479 not Medicaid-certified. This written agreement by the recipient  
480 of the certificate of need shall be a condition of the issuance of  
481 the certificate of need under this paragraph, and the agreement  
482 shall be fully binding on any subsequent owner of the nursing  
483 facility if the ownership of the nursing facility is transferred  
484 at any time after the issuance of the certificate of need. After  
485 this written agreement is executed, the Division of Medicaid and  
486 the State Department of Health shall not certify more than thirty  
487 (30) of the beds in the nursing facility for participation in the  
488 Medicaid program. If the nursing facility violates the terms of  
489 the written agreement by admitting or keeping in the nursing  
490 facility on a regular or continuing basis more than thirty (30)  
491 patients who are participating in the Medicaid program, the State  
492 Department of Health shall revoke the license of the nursing  
493 facility, at the time that the department determines, after a  
494 hearing complying with due process, that the nursing facility has  
495 violated the condition upon which the certificate of need was  
496 issued, as provided in this paragraph and in the written  
497 agreement. If the nursing facility or nursing facility beds  
498 authorized by the certificate of need issued under this paragraph  
499 are not constructed, expanded or converted and fully operational  
500 within thirty-six (36) months after July 1, 1994, the State  
501 Department of Health, after a hearing complying with due process,  
502 shall revoke the certificate of need, if it is still outstanding,  
503 and shall not issue a license for the nursing facility or nursing  
504 facility beds at any time after the expiration of the  
505 thirty-six-month period.

506 (x) The department may issue a certificate of need for  
507 the new construction of a skilled nursing facility in Leake  
508 County, provided that the recipient of the certificate of need  
509 agrees in writing that the skilled nursing facility will not at

510 any time participate in the Medicaid program (Section 43-13-101 et  
511 seq.) or admit or keep any patients in the skilled nursing  
512 facility who are participating in the Medicaid program. This  
513 written agreement by the recipient of the certificate of need  
514 shall be fully binding on any subsequent owner of the skilled  
515 nursing facility, if the ownership of the facility is transferred  
516 at any time after the issuance of the certificate of need.  
517 Agreement that the skilled nursing facility will not participate  
518 in the Medicaid program shall be a condition of the issuance of a  
519 certificate of need to any person under this paragraph (x), and if  
520 such skilled nursing facility at any time after the issuance of  
521 the certificate of need, regardless of the ownership of the  
522 facility, participates in the Medicaid program or admits or keeps  
523 any patients in the facility who are participating in the Medicaid  
524 program, the State Department of Health shall revoke the  
525 certificate of need, if it is still outstanding, and shall deny or  
526 revoke the license of the skilled nursing facility, at the time  
527 that the department determines, after a hearing complying with due  
528 process, that the facility has failed to comply with any of the  
529 conditions upon which the certificate of need was issued, as  
530 provided in this paragraph and in the written agreement by the  
531 recipient of the certificate of need. The provision of Section  
532 43-7-193(1) regarding substantial compliance of the projection of  
533 need as reported in the current State Health Plan is waived for  
534 the purposes of this paragraph. The total number of nursing  
535 facility beds that may be authorized by any certificate of need  
536 issued under this paragraph (x) shall not exceed sixty (60) beds.  
537 If the skilled nursing facility authorized by the certificate of  
538 need issued under this paragraph is not constructed and fully  
539 operational within eighteen (18) months after July 1, 1994, the  
540 State Department of Health, after a hearing complying with due  
541 process, shall revoke the certificate of need, if it is still  
542 outstanding, and shall not issue a license for the skilled nursing  
543 facility at any time after the expiration of the eighteen-month



544 period.

545           (y) The department may issue a certificate of need in  
546 Jones County for making additions to or expansion or replacement  
547 of an existing forty-bed facility in order to increase the number  
548 of its beds to not more than sixty (60) beds. For the purposes of  
549 this paragraph, the provision of Section 41-7-193(1) requiring  
550 substantial compliance with the projection of need as reported in  
551 the current State Health Plan is waived. The total number of  
552 nursing home beds that may be authorized by any certificate of  
553 need issued under this paragraph shall not exceed twenty (20)  
554 beds.

555           (z) The department may issue certificates of need to  
556 allow any existing freestanding long-term care facility in  
557 Tishomingo County and Hancock County that on July 1, 1995, is  
558 licensed with fewer than sixty (60) beds to increase the number of  
559 its beds to not more than sixty (60) beds, provided that the  
560 recipient of the certificate of need agrees in writing that none  
561 of the additional beds authorized by this paragraph (z) at the  
562 nursing facility will be certified for participation in the  
563 Medicaid program (Section 43-13-101 et seq.), and that no claim  
564 will be submitted for Medicaid reimbursement in the nursing  
565 facility for a number of patients in the nursing facility in any  
566 day that is greater than the number of licensed beds in the  
567 facility on July 1, 1995. This written agreement by the recipient  
568 of the certificate of need shall be a condition of the issuance of  
569 the certificate of need under this paragraph, and the agreement  
570 shall be fully binding on any subsequent owner of the nursing  
571 facility if the ownership of the nursing facility is transferred  
572 at any time after the issuance of the certificate of need. After  
573 this agreement is executed, the Division of Medicaid and the State  
574 Department of Health shall not certify more beds in the nursing  
575 facility for participation in the Medicaid program than the number  
576 of licensed beds in the facility on July 1, 1995. If the nursing  
577 facility violates the terms of the written agreement by admitting

578 or keeping in the nursing facility on a regular or continuing  
579 basis a number of patients who are participating in the Medicaid  
580 program that is greater than the number of licensed beds in the  
581 facility on July 1, 1995, the State Department of Health shall  
582 revoke the license of the nursing facility, at the time that the  
583 department determines, after a hearing complying with due process,  
584 that the nursing facility has violated the condition upon which  
585 the certificate of need was issued, as provided in this paragraph  
586 and in the written agreement. For the purposes of this paragraph  
587 (z), the provision of Section 41-7-193(1) requiring substantial  
588 compliance with the projection of need as reported in the current  
589 State Health Plan is waived.

590 (aa) The department may issue a certificate of need for  
591 the construction of a nursing facility at a continuing care  
592 retirement community in Lowndes County, provided that the  
593 recipient of the certificate of need agrees in writing that the  
594 nursing facility will not at any time participate in the Medicaid  
595 program (Section 43-13-101 et seq.) or admit or keep any patients  
596 in the nursing facility who are participating in the Medicaid  
597 program. This written agreement by the recipient of the  
598 certificate of need shall be fully binding on any subsequent owner  
599 of the nursing facility, if the ownership of the facility is  
600 transferred at any time after the issuance of the certificate of  
601 need. Agreement that the nursing facility will not participate in  
602 the Medicaid program shall be a condition of the issuance of a  
603 certificate of need to any person under this paragraph (aa), and  
604 if such nursing facility at any time after the issuance of the  
605 certificate of need, regardless of the ownership of the facility,  
606 participates in the Medicaid program or admits or keeps any  
607 patients in the facility who are participating in the Medicaid  
608 program, the State Department of Health shall revoke the  
609 certificate of need, if it is still outstanding, and shall deny or  
610 revoke the license of the nursing facility, at the time that the  
611 department determines, after a hearing complying with due process,

612 that the facility has failed to comply with any of the conditions  
613 upon which the certificate of need was issued, as provided in this  
614 paragraph and in the written agreement by the recipient of the  
615 certificate of need. The total number of beds that may be  
616 authorized under the authority of this paragraph (aa) shall not  
617 exceed sixty (60) beds.

618 (bb) Provided that funds are specifically appropriated  
619 therefor by the Legislature, the department may issue a  
620 certificate of need to a rehabilitation hospital in Hinds County  
621 for the construction of a sixty-bed long-term care nursing  
622 facility dedicated to the care and treatment of persons with  
623 severe disabilities including persons with spinal cord and  
624 closed-head injuries and ventilator-dependent patients. The  
625 provision of Section 41-7-193(1) regarding substantial compliance  
626 with projection of need as reported in the current State Health  
627 Plan is hereby waived for the purpose of this paragraph.

628 (cc) The State Department of Health may issue a  
629 certificate of need to a county-owned hospital in the Second  
630 Judicial District of Panola County for the conversion of not more  
631 than seventy-two (72) hospital beds to nursing facility beds,  
632 provided that the recipient of the certificate of need agrees in  
633 writing that none of the beds at the nursing facility will be  
634 certified for participation in the Medicaid program (Section  
635 43-13-101 et seq.), and that no claim will be submitted for  
636 Medicaid reimbursement in the nursing facility in any day or for  
637 any patient in the nursing facility. This written agreement by  
638 the recipient of the certificate of need shall be a condition of  
639 the issuance of the certificate of need under this paragraph, and  
640 the agreement shall be fully binding on any subsequent owner of  
641 the nursing facility if the ownership of the nursing facility is  
642 transferred at any time after the issuance of the certificate of  
643 need. After this written agreement is executed, the Division of  
644 Medicaid and the State Department of Health shall not certify any  
645 of the beds in the nursing facility for participation in the

646 Medicaid program. If the nursing facility violates the terms of  
647 the written agreement by admitting or keeping in the nursing  
648 facility on a regular or continuing basis any patients who are  
649 participating in the Medicaid program, the State Department of  
650 Health shall revoke the license of the nursing facility, at the  
651 time that the department determines, after a hearing complying  
652 with due process, that the nursing facility has violated the  
653 condition upon which the certificate of need was issued, as  
654 provided in this paragraph and in the written agreement. If the  
655 certificate of need authorized under this paragraph is not issued  
656 within twelve (12) months after July 1, 1998, the department shall  
657 deny the application for the certificate of need and shall not  
658 issue the certificate of need at any time after the twelve-month  
659 period, unless the issuance is contested. If the certificate of  
660 need is issued and substantial construction of the nursing  
661 facility beds has not commenced within eighteen (18) months after  
662 July 1, 1998, the State Department of Health, after a hearing  
663 complying with due process, shall revoke the certificate of need  
664 if it is still outstanding, and the department shall not issue a  
665 license for the nursing facility at any time after the  
666 eighteen-month period. Provided, however, that if the issuance of  
667 the certificate of need is contested, the department shall require  
668 substantial construction of the nursing facility beds within six  
669 (6) months after final adjudication on the issuance of the  
670 certificate of need.

671 (dd) The department may issue a certificate of need for  
672 the new construction, addition or conversion of skilled nursing  
673 facility beds in Madison County, provided that the recipient of  
674 the certificate of need agrees in writing that the skilled nursing  
675 facility will not at any time participate in the Medicaid program  
676 (Section 43-13-101 et seq.) or admit or keep any patients in the  
677 skilled nursing facility who are participating in the Medicaid  
678 program. This written agreement by the recipient of the  
679 certificate of need shall be fully binding on any subsequent owner

680 of the skilled nursing facility, if the ownership of the facility  
681 is transferred at any time after the issuance of the certificate  
682 of need. Agreement that the skilled nursing facility will not  
683 participate in the Medicaid program shall be a condition of the  
684 issuance of a certificate of need to any person under this  
685 paragraph (dd), and if such skilled nursing facility at any time  
686 after the issuance of the certificate of need, regardless of the  
687 ownership of the facility, participates in the Medicaid program or  
688 admits or keeps any patients in the facility who are participating  
689 in the Medicaid program, the State Department of Health shall  
690 revoke the certificate of need, if it is still outstanding, and  
691 shall deny or revoke the license of the skilled nursing facility,  
692 at the time that the department determines, after a hearing  
693 complying with due process, that the facility has failed to comply  
694 with any of the conditions upon which the certificate of need was  
695 issued, as provided in this paragraph and in the written agreement  
696 by the recipient of the certificate of need. The total number of  
697 nursing facility beds that may be authorized by any certificate of  
698 need issued under this paragraph (dd) shall not exceed sixty (60)  
699 beds. If the certificate of need authorized under this paragraph  
700 is not issued within twelve (12) months after July 1, 1998, the  
701 department shall deny the application for the certificate of need  
702 and shall not issue the certificate of need at any time after the  
703 twelve-month period, unless the issuance is contested. If the  
704 certificate of need is issued and substantial construction of the  
705 nursing facility beds has not commenced within eighteen (18)  
706 months after July 1, 1998, the State Department of Health, after a  
707 hearing complying with due process, shall revoke the certificate  
708 of need if it is still outstanding, and the department shall not  
709 issue a license for the nursing facility at any time after the  
710 eighteen-month period. Provided, however, that if the issuance of  
711 the certificate of need is contested, the department shall require  
712 substantial construction of the nursing facility beds within six  
713 (6) months after final adjudication on the issuance of the

714 certificate of need.

715           (ee) The department may issue a certificate of need for  
716 the new construction, addition or conversion of skilled nursing  
717 facility beds in Leake County, provided that the recipient of the  
718 certificate of need agrees in writing that the skilled nursing  
719 facility will not at any time participate in the Medicaid program  
720 (Section 43-13-101 et seq.) or admit or keep any patients in the  
721 skilled nursing facility who are participating in the Medicaid  
722 program. This written agreement by the recipient of the  
723 certificate of need shall be fully binding on any subsequent owner  
724 of the skilled nursing facility, if the ownership of the facility  
725 is transferred at any time after the issuance of the certificate  
726 of need. Agreement that the skilled nursing facility will not  
727 participate in the Medicaid program shall be a condition of the  
728 issuance of a certificate of need to any person under this  
729 paragraph (ee), and if such skilled nursing facility at any time  
730 after the issuance of the certificate of need, regardless of the  
731 ownership of the facility, participates in the Medicaid program or  
732 admits or keeps any patients in the facility who are participating  
733 in the Medicaid program, the State Department of Health shall  
734 revoke the certificate of need, if it is still outstanding, and  
735 shall deny or revoke the license of the skilled nursing facility,  
736 at the time that the department determines, after a hearing  
737 complying with due process, that the facility has failed to comply  
738 with any of the conditions upon which the certificate of need was  
739 issued, as provided in this paragraph and in the written agreement  
740 by the recipient of the certificate of need. The total number of  
741 nursing facility beds that may be authorized by any certificate of  
742 need issued under this paragraph (ee) shall not exceed sixty (60)  
743 beds. If the certificate of need authorized under this paragraph  
744 is not issued within twelve (12) months after July 1, 1998, the  
745 department shall deny the application for the certificate of need  
746 and shall not issue the certificate of need at any time after the  
747 twelve-month period, unless the issuance is contested. If the

748 certificate of need is issued and substantial construction of the  
749 nursing facility beds has not commenced within eighteen (18)  
750 months after July 1, 1998, the State Department of Health, after a  
751 hearing complying with due process, shall revoke the certificate  
752 of need if it is still outstanding, and the department shall not  
753 issue a license for the nursing facility at any time after the  
754 eighteen-month period. Provided, however, that if the issuance of  
755 the certificate of need is contested, the department shall require  
756 substantial construction of the nursing facility beds within six  
757 (6) months after final adjudication on the issuance of the  
758 certificate of need.

759 (ff) The department may issue a certificate of need for  
760 the construction of a municipally-owned nursing facility within  
761 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
762 beds, provided that the recipient of the certificate of need  
763 agrees in writing that the skilled nursing facility will not at  
764 any time participate in the Medicaid program (Section 43-13-101 et  
765 seq.) or admit or keep any patients in the skilled nursing  
766 facility who are participating in the Medicaid program. This  
767 written agreement by the recipient of the certificate of need  
768 shall be fully binding on any subsequent owner of the skilled  
769 nursing facility, if the ownership of the facility is transferred  
770 at any time after the issuance of the certificate of need.

771 Agreement that the skilled nursing facility will not participate  
772 in the Medicaid program shall be a condition of the issuance of a  
773 certificate of need to any person under this paragraph (ff), and  
774 if such skilled nursing facility at any time after the issuance of  
775 the certificate of need, regardless of the ownership of the  
776 facility, participates in the Medicaid program or admits or keeps  
777 any patients in the facility who are participating in the Medicaid  
778 program, the State Department of Health shall revoke the  
779 certificate of need, if it is still outstanding, and shall deny or  
780 revoke the license of the skilled nursing facility, at the time  
781 that the department determines, after a hearing complying with due

782 process, that the facility has failed to comply with any of the  
783 conditions upon which the certificate of need was issued, as  
784 provided in this paragraph and in the written agreement by the  
785 recipient of the certificate of need. The provision of Section  
786 43-7-193(1) regarding substantial compliance of the projection of  
787 need as reported in the current State Health Plan is waived for  
788 the purposes of this paragraph. If the certificate of need  
789 authorized under this paragraph is not issued within twelve (12)  
790 months after July 1, 1998, the department shall deny the  
791 application for the certificate of need and shall not issue the  
792 certificate of need at any time after the twelve-month period,  
793 unless the issuance is contested. If the certificate of need is  
794 issued and substantial construction of the nursing facility beds  
795 has not commenced within eighteen (18) months after July 1, 1998,  
796 the State Department of Health, after a hearing complying with due  
797 process, shall revoke the certificate of need if it is still  
798 outstanding, and the department shall not issue a license for the  
799 nursing facility at any time after the eighteen-month period.  
800 Provided, however, that if the issuance of the certificate of need  
801 is contested, the department shall require substantial  
802 construction of the nursing facility beds within six (6) months  
803 after final adjudication on the issuance of the certificate of  
804 need.

805 (3) If the holder of the certificate of need that was issued  
806 before January 1, 1990, for the construction of a nursing home in  
807 Claiborne County has not substantially undertaken commencement of  
808 construction by completing site works and pouring foundations and  
809 the floor slab of a nursing home in Claiborne County before May 1,  
810 1990, as determined by the department, then the department shall  
811 transfer such certificate of need to the Board of Supervisors of  
812 Claiborne County upon the effective date of this subsection (3).  
813 If the certificate of need is transferred to the board of  
814 supervisors, it shall be valid for a period of twelve (12) months  
815 and shall authorize the construction of a sixty-bed nursing home



816 on county-owned property or the conversion of vacant hospital beds  
817 in the county hospital not to exceed sixty (60) beds.

818 (4) The State Department of Health may grant approval for  
819 and issue certificates of need to any person proposing the new  
820 construction of, addition to, conversion of beds of or expansion  
821 of any health care facility defined in subparagraph (x)  
822 (psychiatric residential treatment facility) of Section  
823 41-7-173(h). The total number of beds which may be authorized by  
824 such certificates of need shall not exceed two hundred  
825 seventy-four (274) beds for the entire state.

826 (a) Of the total number of beds authorized under this  
827 subsection, the department shall issue a certificate of need to a  
828 privately owned psychiatric residential treatment facility in  
829 Simpson County for the conversion of sixteen (16) intermediate  
830 care facility for the mentally retarded (ICF-MR) beds to  
831 psychiatric residential treatment facility beds, provided that  
832 facility agrees in writing that the facility shall give priority  
833 for the use of those sixteen (16) beds to Mississippi residents  
834 who are presently being treated in out-of-state facilities.

835 (b) Of the total number of beds authorized under this  
836 subsection, the department may issue a certificate or certificates  
837 of need for the construction or expansion of psychiatric  
838 residential treatment facility beds or the conversion of other  
839 beds to psychiatric residential treatment facility beds in Warren  
840 County, not to exceed sixty (60) psychiatric residential treatment  
841 facility beds, provided that the facility agrees in writing that  
842 no more than thirty (30) of the beds at the psychiatric  
843 residential treatment facility will be certified for participation  
844 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
845 any patients other than those who are participating only in the  
846 Medicaid program of another state, and that no claim will be  
847 submitted to the Division of Medicaid for Medicaid reimbursement  
848 for more than thirty (30) patients in the psychiatric residential  
849 treatment facility in any day or for any patient in the

850 psychiatric residential treatment facility who is in a bed that is  
851 not Medicaid-certified. This written agreement by the recipient  
852 of the certificate of need shall be a condition of the issuance of  
853 the certificate of need under this paragraph, and the agreement  
854 shall be fully binding on any subsequent owner of the psychiatric  
855 residential treatment facility if the ownership of the facility is  
856 transferred at any time after the issuance of the certificate of  
857 need. After this written agreement is executed, the Division of  
858 Medicaid and the State Department of Health shall not certify more  
859 than thirty (30) of the beds in the psychiatric residential  
860 treatment facility for participation in the Medicaid program for  
861 the use of any patients other than those who are participating  
862 only in the Medicaid program of another state. If the psychiatric  
863 residential treatment facility violates the terms of the written  
864 agreement by admitting or keeping in the facility on a regular or  
865 continuing basis more than thirty (30) patients who are  
866 participating in the Mississippi Medicaid program, the State  
867 Department of Health shall revoke the license of the facility, at  
868 the time that the department determines, after a hearing complying  
869 with due process, that the facility has violated the condition  
870 upon which the certificate of need was issued, as provided in this  
871 paragraph and in the written agreement.

872 (c) Of the total number of beds authorized under this  
873 subsection, the department shall issue a certificate of need to a  
874 hospital currently operating Medicaid-certified acute psychiatric  
875 beds for adolescents in DeSoto County, for the establishment of a  
876 forty-bed psychiatric residential treatment facility in DeSoto  
877 County, provided that the hospital agrees in writing (i) that the  
878 hospital shall give priority for the use of those forty (40) beds  
879 to Mississippi residents who are presently being treated in  
880 out-of-state facilities, and (ii) that no more than fifteen (15)  
881 of the beds at the psychiatric residential treatment facility will  
882 be certified for participation in the Medicaid program (Section  
883 43-13-101 et seq.), and that no claim will be submitted for

884 Medicaid reimbursement for more than fifteen (15) patients in the  
885 psychiatric residential treatment facility in any day or for any  
886 patient in the psychiatric residential treatment facility who is  
887 in a bed that is not Medicaid-certified. This written agreement  
888 by the recipient of the certificate of need shall be a condition  
889 of the issuance of the certificate of need under this paragraph,  
890 and the agreement shall be fully binding on any subsequent owner  
891 of the psychiatric residential treatment facility if the ownership  
892 of the facility is transferred at any time after the issuance of  
893 the certificate of need. After this written agreement is  
894 executed, the Division of Medicaid and the State Department of  
895 Health shall not certify more than fifteen (15) of the beds in the  
896 psychiatric residential treatment facility for participation in  
897 the Medicaid program. If the psychiatric residential treatment  
898 facility violates the terms of the written agreement by admitting  
899 or keeping in the facility on a regular or continuing basis more  
900 than fifteen (15) patients who are participating in the Medicaid  
901 program, the State Department of Health shall revoke the license  
902 of the facility, at the time that the department determines, after  
903 a hearing complying with due process, that the facility has  
904 violated the condition upon which the certificate of need was  
905 issued, as provided in this paragraph and in the written  
906 agreement.

907 (d) Of the total number of beds authorized under this  
908 subsection, the department may issue a certificate or certificates  
909 of need for the construction or expansion of psychiatric  
910 residential treatment facility beds or the conversion of other  
911 beds to psychiatric treatment facility beds, not to exceed thirty  
912 (30) psychiatric residential treatment facility beds, in either  
913 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
914 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

915 (e) Of the total number of beds authorized under this  
916 subsection (4) the department shall issue a certificate of need to  
917 a privately owned, nonprofit psychiatric residential treatment

918 facility in Hinds County for an eight-bed expansion of the  
919 facility, provided that the facility agrees in writing that the  
920 facility shall give priority for the use of those eight (8) beds  
921 to Mississippi residents who are presently being treated in  
922 out-of-state facilities.

923 (5) (a) From and after July 1, 1993, the department shall  
924 not issue a certificate of need to any person for the new  
925 construction of any hospital, psychiatric hospital or chemical  
926 dependency hospital that will contain any child/adolescent  
927 psychiatric or child/adolescent chemical dependency beds, or for  
928 the conversion of any other health care facility to a hospital,  
929 psychiatric hospital or chemical dependency hospital that will  
930 contain any child/adolescent psychiatric or child/adolescent  
931 chemical dependency beds, or for the addition of any  
932 child/adolescent psychiatric or child/adolescent chemical  
933 dependency beds in any hospital, psychiatric hospital or chemical  
934 dependency hospital, or for the conversion of any beds of another  
935 category in any hospital, psychiatric hospital or chemical  
936 dependency hospital to child/adolescent psychiatric or  
937 child/adolescent chemical dependency beds, except as hereinafter  
938 authorized:

939 (i) The department may issue certificates of need  
940 to any person for any purpose described in this subsection,  
941 provided that the hospital, psychiatric hospital or chemical  
942 dependency hospital does not participate in the Medicaid program  
943 (Section 43-13-101 et seq.) at the time of the application for the  
944 certificate of need and the owner of the hospital, psychiatric  
945 hospital or chemical dependency hospital agrees in writing that  
946 the hospital, psychiatric hospital or chemical dependency hospital  
947 will not at any time participate in the Medicaid program or admit  
948 or keep any patients who are participating in the Medicaid program  
949 in the hospital, psychiatric hospital or chemical dependency  
950 hospital. This written agreement by the recipient of the  
951 certificate of need shall be fully binding on any subsequent owner

952 of the hospital, psychiatric hospital or chemical dependency  
953 hospital, if the ownership of the facility is transferred at any  
954 time after the issuance of the certificate of need. Agreement  
955 that the hospital, psychiatric hospital or chemical dependency  
956 hospital will not participate in the Medicaid program shall be a  
957 condition of the issuance of a certificate of need to any person  
958 under this subparagraph (a)(i), and if such hospital, psychiatric  
959 hospital or chemical dependency hospital at any time after the  
960 issuance of the certificate of need, regardless of the ownership  
961 of the facility, participates in the Medicaid program or admits or  
962 keeps any patients in the hospital, psychiatric hospital or  
963 chemical dependency hospital who are participating in the Medicaid  
964 program, the State Department of Health shall revoke the  
965 certificate of need, if it is still outstanding, and shall deny or  
966 revoke the license of the hospital, psychiatric hospital or  
967 chemical dependency hospital, at the time that the department  
968 determines, after a hearing complying with due process, that the  
969 hospital, psychiatric hospital or chemical dependency hospital has  
970 failed to comply with any of the conditions upon which the  
971 certificate of need was issued, as provided in this subparagraph  
972 and in the written agreement by the recipient of the certificate  
973 of need.

974           (ii) The department may issue a certificate of  
975 need for the conversion of existing beds in a county hospital in  
976 Choctaw County from acute care beds to child/adolescent chemical  
977 dependency beds. For purposes of this paragraph, the provisions  
978 of Section 41-7-193(1) requiring substantial compliance with the  
979 projection of need as reported in the current State Health Plan is  
980 waived. The total number of beds that may be authorized under  
981 authority of this paragraph shall not exceed twenty (20) beds.  
982 There shall be no prohibition or restrictions on participation in  
983 the Medicaid program (Section 43-13-101 et seq.) for the hospital  
984 receiving the certificate of need authorized under this  
985 subparagraph (a)(ii) or for the beds converted pursuant to the

986 authority of that certificate of need.

987                   (iii) The department may issue a certificate or  
988 certificates of need for the construction or expansion of  
989 child/adolescent psychiatric beds or the conversion of other beds  
990 to child/adolescent psychiatric beds in Warren County. For  
991 purposes of this subparagraph, the provisions of Section  
992 41-7-193(1) requiring substantial compliance with the projection  
993 of need as reported in the current State Health Plan are waived.  
994 The total number of beds that may be authorized under the  
995 authority of this subparagraph shall not exceed twenty (20) beds.

996 There shall be no prohibition or restrictions on participation in  
997 the Medicaid program (Section 43-13-101 et seq.) for the person  
998 receiving the certificate of need authorized under this  
999 subparagraph (a)(iii) or for the beds converted pursuant to the  
1000 authority of that certificate of need.

1001                   (iv) The department shall issue a certificate of  
1002 need to the Region 7 Mental Health/Retardation Commission for the  
1003 construction or expansion of child/adolescent psychiatric beds or  
1004 the conversion of other beds to child/adolescent psychiatric beds  
1005 in any of the counties served by the commission. For purposes of  
1006 this subparagraph, the provisions of Section 41-7-193(1) requiring  
1007 substantial compliance with the projection of need as reported in  
1008 the current State Health Plan is waived. The total number of beds  
1009 that may be authorized under the authority of this subparagraph  
1010 shall not exceed twenty (20) beds. There shall be no prohibition  
1011 or restrictions on participation in the Medicaid program (Section  
1012 43-13-101 et seq.) for the person receiving the certificate of  
1013 need authorized under this subparagraph (a)(iv) or for the beds  
1014 converted pursuant to the authority of that certificate of need.

1015                   (v) The department may issue a certificate of need  
1016 to any county hospital located in Leflore County for the  
1017 construction or expansion of adult psychiatric beds or the  
1018 conversion of other beds to adult psychiatric beds, not to exceed  
1019 twenty (20) beds, provided that the recipient of the certificate

1020 of need agrees in writing that the adult psychiatric beds will not  
1021 at any time be certified for participation in the Medicaid program  
1022 and that the hospital will not admit or keep any patients who are  
1023 participating in the Medicaid program in any of such adult  
1024 psychiatric beds. This written agreement by the recipient of the  
1025 certificate of need shall be fully binding on any subsequent owner  
1026 of the hospital if the ownership of the hospital is transferred at  
1027 any time after the issuance of the certificate of need. Agreement  
1028 that the adult psychiatric beds will not be certified for  
1029 participation in the Medicaid program shall be a condition of the  
1030 issuance of a certificate of need to any person under this  
1031 subparagraph (a)(v), and if such hospital at any time after the  
1032 issuance of the certificate of need, regardless of the ownership  
1033 of the hospital, has any of such adult psychiatric beds certified  
1034 for participation in the Medicaid program or admits or keeps any  
1035 Medicaid patients in such adult psychiatric beds, the State  
1036 Department of Health shall revoke the certificate of need, if it  
1037 is still outstanding, and shall deny or revoke the license of the  
1038 hospital at the time that the department determines, after a  
1039 hearing complying with due process, that the hospital has failed  
1040 to comply with any of the conditions upon which the certificate of  
1041 need was issued, as provided in this subparagraph and in the  
1042 written agreement by the recipient of the certificate of need.

1043 (b) From and after July 1, 1990, no hospital,  
1044 psychiatric hospital or chemical dependency hospital shall be  
1045 authorized to add any child/adolescent psychiatric or  
1046 child/adolescent chemical dependency beds or convert any beds of  
1047 another category to child/adolescent psychiatric or  
1048 child/adolescent chemical dependency beds without a certificate of  
1049 need under the authority of subsection (1)(c) of this section.

1050 (6) The department may issue a certificate of need to a  
1051 county hospital in Winston County for the conversion of fifteen  
1052 (15) acute care beds to geriatric psychiatric care beds.

1053 (7) The State Department of Health shall issue a certificate

1054 of need to a Mississippi corporation qualified to manage a  
1055 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
1056 Harrison County, not to exceed eighty (80) beds, including any  
1057 necessary renovation or construction required for licensure and  
1058 certification, provided that the recipient of the certificate of  
1059 need agrees in writing that the long-term care hospital will not  
1060 at any time participate in the Medicaid program (Section 43-13-101  
1061 et seq.) or admit or keep any patients in the long-term care  
1062 hospital who are participating in the Medicaid program. This  
1063 written agreement by the recipient of the certificate of need  
1064 shall be fully binding on any subsequent owner of the long-term  
1065 care hospital, if the ownership of the facility is transferred at  
1066 any time after the issuance of the certificate of need. Agreement  
1067 that the long-term care hospital will not participate in the  
1068 Medicaid program shall be a condition of the issuance of a  
1069 certificate of need to any person under this subsection (7), and  
1070 if such long-term care hospital at any time after the issuance of  
1071 the certificate of need, regardless of the ownership of the  
1072 facility, participates in the Medicaid program or admits or keeps  
1073 any patients in the facility who are participating in the Medicaid  
1074 program, the State Department of Health shall revoke the  
1075 certificate of need, if it is still outstanding, and shall deny or  
1076 revoke the license of the long-term care hospital, at the time  
1077 that the department determines, after a hearing complying with due  
1078 process, that the facility has failed to comply with any of the  
1079 conditions upon which the certificate of need was issued, as  
1080 provided in this paragraph and in the written agreement by the  
1081 recipient of the certificate of need. For purposes of this  
1082 paragraph, the provision of Section 41-7-193(1) requiring  
1083 substantial compliance with the projection of need as reported in  
1084 the current State Health Plan is hereby waived.

1085 (8) The State Department of Health may issue a certificate  
1086 of need to any hospital in the state to utilize a portion of its  
1087 beds for the "swing-bed" concept. Any such hospital must be in



1088 conformance with the federal regulations regarding such swing-bed  
1089 concept at the time it submits its application for a certificate  
1090 of need to the State Department of Health, except that such  
1091 hospital may have more licensed beds or a higher average daily  
1092 census (ADC) than the maximum number specified in federal  
1093 regulations for participation in the swing-bed program. Any  
1094 hospital meeting all federal requirements for participation in the  
1095 swing-bed program which receives such certificate of need shall  
1096 render services provided under the swing-bed concept to any  
1097 patient eligible for Medicare (Title XVIII of the Social Security  
1098 Act) who is certified by a physician to be in need of such  
1099 services, and no such hospital shall permit any patient who is  
1100 eligible for both Medicaid and Medicare or eligible only for  
1101 Medicaid to stay in the swing beds of the hospital for more than  
1102 thirty (30) days per admission unless the hospital receives prior  
1103 approval for such patient from the Division of Medicaid, Office of  
1104 the Governor. Any hospital having more licensed beds or a higher  
1105 average daily census (ADC) than the maximum number specified in  
1106 federal regulations for participation in the swing-bed program  
1107 which receives such certificate of need shall develop a procedure  
1108 to insure that before a patient is allowed to stay in the swing  
1109 beds of the hospital, there are no vacant nursing home beds  
1110 available for that patient located within a fifty-mile radius of  
1111 the hospital. When any such hospital has a patient staying in the  
1112 swing beds of the hospital and the hospital receives notice from a  
1113 nursing home located within such radius that there is a vacant bed  
1114 available for that patient, the hospital shall transfer the  
1115 patient to the nursing home within a reasonable time after receipt  
1116 of the notice. Any hospital which is subject to the requirements  
1117 of the two (2) preceding sentences of this paragraph may be  
1118 suspended from participation in the swing-bed program for a  
1119 reasonable period of time by the State Department of Health if the  
1120 department, after a hearing complying with due process, determines  
1121 that the hospital has failed to comply with any of those

1122 requirements.

1123 (9) The Department of Health shall not grant approval for or  
1124 issue a certificate of need to any person proposing the new  
1125 construction of, addition to or expansion of a health care  
1126 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1127 (10) The Department of Health shall not grant approval for  
1128 or issue a certificate of need to any person proposing the  
1129 establishment of, or expansion of the currently approved territory  
1130 of, or the contracting to establish a home office, subunit or  
1131 branch office within the space operated as a health care facility  
1132 as defined in Section 41-7-173(h)(i) through (viii) by a health  
1133 care facility as defined in subparagraph (ix) of Section  
1134 41-7-173(h).

1135 (11) Health care facilities owned and/or operated by the  
1136 state or its agencies are exempt from the restraints in this  
1137 section against issuance of a certificate of need if such addition  
1138 or expansion consists of repairing or renovation necessary to  
1139 comply with the state licensure law. This exception shall not  
1140 apply to the new construction of any building by such state  
1141 facility. This exception shall not apply to any health care  
1142 facilities owned and/or operated by counties, municipalities,  
1143 districts, unincorporated areas, other defined persons, or any  
1144 combination thereof.

1145 (12) The new construction, renovation or expansion of or  
1146 addition to any health care facility defined in subparagraph (ii)  
1147 (psychiatric hospital), subparagraph (iv) (skilled nursing  
1148 facility), subparagraph (vi) (intermediate care facility),  
1149 subparagraph (viii) (intermediate care facility for the mentally  
1150 retarded) and subparagraph (x) (psychiatric residential treatment  
1151 facility) of Section 41-7-173(h) which is owned by the State of  
1152 Mississippi and under the direction and control of the State  
1153 Department of Mental Health, and the addition of new beds or the  
1154 conversion of beds from one category to another in any such  
1155 defined health care facility which is owned by the State of

1156 Mississippi and under the direction and control of the State  
1157 Department of Mental Health, shall not require the issuance of a  
1158 certificate of need under Section 41-7-171 et seq.,  
1159 notwithstanding any provision in Section 41-7-171 et seq. to the  
1160 contrary.

1161 (13) The new construction, renovation or expansion of or  
1162 addition to any veterans homes or domiciliaries for eligible  
1163 veterans of the State of Mississippi as authorized under Section  
1164 35-1-19 shall not require the issuance of a certificate of need,  
1165 notwithstanding any provision in Section 41-7-171 et seq. to the  
1166 contrary.

1167 (14) The new construction of a nursing facility or nursing  
1168 facility beds or the conversion of other beds to nursing facility  
1169 beds shall not require the issuance of a certificate of need,  
1170 notwithstanding any provision in Section 41-7-171 et seq. to the  
1171 contrary, if the conditions of this subsection are met.

1172 (a) Before any construction or conversion may be  
1173 undertaken without a certificate of need, the owner of the nursing  
1174 facility, in the case of an existing facility, or the applicant to  
1175 construct a nursing facility, in the case of new construction,  
1176 first must file a written notice of intent and sign a written  
1177 agreement with the State Department of Health that the entire  
1178 nursing facility will not at any time participate in or have any  
1179 beds certified for participation in the Medicaid program (Section  
1180 43-13-101 et seq.), will not admit or keep any patients in the  
1181 nursing facility who are participating in the Medicaid program,  
1182 and will not submit any claim for Medicaid reimbursement for any  
1183 patient in the facility. This written agreement by the owner or  
1184 applicant shall be a condition of exercising the authority under  
1185 this subsection without a certificate of need, and the agreement  
1186 shall be fully binding on any subsequent owner of the nursing  
1187 facility if the ownership of the facility is transferred at any  
1188 time after the agreement is signed. After the written agreement  
1189 is signed, the Division of Medicaid and the State Department of

1190 Health shall not certify any beds in the nursing facility for  
1191 participation in the Medicaid program. If the nursing facility  
1192 violates the terms of the written agreement by participating in  
1193 the Medicaid program, having any beds certified for participation  
1194 in the Medicaid program, admitting or keeping any patient in the  
1195 facility who is participating in the Medicaid program, or  
1196 submitting any claim for Medicaid reimbursement for any patient in  
1197 the facility, the State Department of Health shall revoke the  
1198 license of the nursing facility at the time that the department  
1199 determines, after a hearing complying with due process, that the  
1200 facility has violated the terms of the written agreement.

1201 (b) For the purposes of this subsection, participation  
1202 in the Medicaid program by a nursing facility includes Medicaid  
1203 reimbursement of coinsurance and deductibles for recipients who  
1204 are qualified Medicare beneficiaries and/or those who are dually  
1205 eligible. Any nursing facility exercising the authority under  
1206 this subsection may not bill or submit a claim to the Division of  
1207 Medicaid for services to qualified Medicare beneficiaries and/or  
1208 those who are dually eligible.

1209 (c) The new construction of a nursing facility or  
1210 nursing facility beds or the conversion of other beds to nursing  
1211 facility beds described in this section must be either a part of a  
1212 completely new continuing care retirement community, as described  
1213 in the latest edition of the Mississippi State Health Plan, or an  
1214 addition to existing personal care and independent living  
1215 components, and so that the completed project will be a continuing  
1216 care retirement community, containing (i) independent living  
1217 accommodations, (ii) personal care beds, and (iii) the nursing  
1218 home facility beds. The three (3) components must be located on a  
1219 single site and be operated as one (1) inseparable facility. The  
1220 nursing facility component must contain a minimum of thirty (30)  
1221 beds. Any nursing facility beds authorized by this section will  
1222 not be counted against the bed need set forth in the State Health  
1223 Plan, as identified in Section 41-7-171, et seq.

1224           This subsection (14) shall stand repealed from and after July  
1225 1, 2001.

1226           SECTION 2. This act shall take effect and be in force from  
1227 and after its passage.