

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 849

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

15 41-7-173. For the purposes of Section 41-7-171 et seq., the
16 following words shall have the meanings ascribed herein, unless
17 the context otherwise requires:

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

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

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

38 (c) (i) "Capital expenditure" when pertaining to
39 defined major medical equipment, shall mean an expenditure which,
40 under generally accepted accounting principles consistently
41 applied, is not properly chargeable as an expense of operation and
42 maintenance and which exceeds One Million Five Hundred Thousand
43 Dollars (\$1,500,000.00).

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

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

59 (iv) In those instances where a health care
60 facility or other provider of health services proposes to provide
61 a service in which the capital expenditure for major medical
62 equipment or other than major medical equipment or a combination
63 of the two (2) may have been split between separate parties, the
64 total capital expenditure required to provide the proposed service
65 shall be considered in determining the necessity of certificate of
66 need review and in determining the appropriate certificate of need

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67 review fee to be paid. The capital expenditure associated with
68 facilities and equipment to provide services in Mississippi shall
69 be considered regardless of where the capital expenditure was
70 made, in state or out of state, and regardless of the domicile of
71 the party making the capital expenditure, in state or out of
72 state.

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

83 (e) "Commencement of construction" means that all of
84 the following have been completed with respect to a proposal or
85 project proposing construction, renovating, remodeling or
86 alteration:

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

93 (ii) Any and all permits and/or approvals deemed
94 lawfully necessary by all authorities with responsibility for such
95 have been secured; and

96 (iii) Actual bona fide undertaking of the subject
97 proposal has commenced, and a progress payment of at least one
98 percent (1%) of the total cost price of the contract has been paid
99 to the contractor by the proponent, and the requirements of this

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100 paragraph (e) have been certified to in writing by the State
101 Department of Health.

102 Force account expenditures, such as deposits,
103 securities, bonds, et cetera, may, in the discretion of the State
104 Department of Health, be excluded from any or all of the
105 provisions of defined commencement of construction.

106 (f) "Consumer" means an individual who is not a
107 provider of health care as defined in paragraph (q) of this
108 section.

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

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

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133 paragraph shall be defined as follows:

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

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

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

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

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

164 (vi) "Intermediate care facility" means an
165 institution which provides, on a regular basis, health related

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166 care and services to individuals who do not require the degree of
167 care and treatment which a hospital or skilled nursing facility is
168 designed to provide, but who, because of their mental or physical
169 condition, require health related care and services (above the
170 level of room and board).

171 (vii) "Ambulatory surgical facility" means a
172 facility primarily organized or established for the purpose of
173 performing surgery for outpatients and is a separate identifiable
174 legal entity from any other health care facility. Such term does
175 not include the offices of private physicians or dentists, whether
176 for individual or group practice, and does not include any
177 abortion facility as defined in Section 41-75-1(e).

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

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

- 194 1. Physical, occupational or speech therapy;
- 195 2. Medical social services;
- 196 3. Part-time or intermittent services of a
197 home health aide;
- 198 4. Other services as approved by the

199 licensing agency for home health agencies;

200 5. Medical supplies, other than drugs and
201 biologicals, and the use of medical appliances; or

202 6. Medical services provided by an intern or
203 resident-in-training at a hospital under a teaching program of
204 such hospital.

205 Further, all skilled nursing services and those
206 services listed in items 1. through 4. of this subparagraph (ix)
207 must be provided directly by the licensed home health agency. For
208 purposes of this subparagraph, "directly" means either through an
209 agency employee or by an arrangement with another individual not
210 defined as a health care facility.

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

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

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

231 2. An inability to build or maintain

232 satisfactory relationships with peers and teachers;

233 3. Inappropriate types of behavior or
234 feelings under normal circumstances;

235 4. A general pervasive mood of unhappiness or
236 depression; or

237 5. A tendency to develop physical symptoms or
238 fears associated with personal or school problems. An
239 establishment furnishing primarily domiciliary care is not within
240 this definition.

241 (xi) "Pediatric skilled nursing facility" means an
242 institution or a distinct part of an institution that is primarily
243 engaged in providing to inpatients skilled nursing care and
244 related services for persons under twenty-one (21) years of age
245 who require medical or nursing care or rehabilitation services for
246 the rehabilitation of injured, disabled or sick persons.

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

259 (xiii) "Comprehensive medical rehabilitation
260 facility" means a hospital or hospital unit that is licensed
261 and/or certified as a comprehensive medical rehabilitation
262 facility which provides specialized programs that are accredited
263 by the Commission on Accreditation of Rehabilitation Facilities
264 and supervised by a physician board certified or board eligible in

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265 Physiatry or other doctor of medicine or osteopathy with at least
266 two (2) years of training in the medical direction of a
267 comprehensive rehabilitation program that:

268 1. Includes evaluation and treatment of
269 individuals with physical disabilities;

270 2. Emphasizes education and training of
271 individuals with disabilities;

272 3. Incorporates at least the following core
273 disciplines:

274 (i) Physical Therapy;

275 (ii) Occupational Therapy;

276 (iii) Speech and Language Therapy;

277 (iv) Rehabilitation Nursing; and

278 4. Incorporates at least three (3) of the
279 following disciplines:

280 (i) Psychology;

281 (ii) Audiology;

282 (iii) Respiratory Therapy;

283 (iv) Therapeutic Recreation;

284 (v) Orthotics;

285 (vi) Prosthetics;

286 (vii) Special Education;

287 (viii) Vocational Rehabilitation;

288 (ix) Psychotherapy;

289 (x) Social Work;

290 (xi) Rehabilitation Engineering.

291 These specialized programs include, but are not limited
292 to: spinal cord injury programs, head injury programs and infant
293 and early childhood development programs.

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

297 (i) Provides or otherwise makes available to

298 enrolled participants health care services, including
299 substantially the following basic health care services: usual
300 physician services, hospitalization, laboratory, X-ray, emergency
301 and preventive services, and out-of-area coverage;

302 (ii) Is compensated (except for copayments) for
303 the provision of the basic health care services listed in
304 subparagraph (i) of this paragraph to enrolled participants on a
305 predetermined basis; and

306 (iii) Provides physician services primarily:

307 1. Directly through physicians who are either
308 employees or partners of such organization; or

309 2. Through arrangements with individual
310 physicians or one or more groups of physicians (organized on a
311 group practice or individual practice basis).

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

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

320 (l) "Institutional health services" shall mean health
321 services provided in or through health care facilities and shall
322 include the entities in or through which such services are
323 provided.

324 (m) "Major medical equipment" means medical equipment
325 designed for providing medical or any health related service which
326 costs in excess of One Million Five Hundred Thousand Dollars
327 (\$1,500,000.00). However, this definition shall not be applicable
328 to clinical laboratories if they are determined by the State
329 Department of Health to be independent of any physician's office,
330 hospital or other health care facility or otherwise not so defined

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331 by federal or state law, or rules and regulations promulgated
332 thereunder.

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

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

341 (p) "Person" means an individual, a trust or estate,
342 partnership, corporation (including associations, joint stock
343 companies and insurance companies), the state or a political
344 subdivision or instrumentality of the state.

345 (q) "Provider" shall mean any person who is a provider
346 or representative of a provider of health care services requiring
347 a certificate of need under Section 41-7-171 et seq., or who has
348 any financial or indirect interest in any provider of services.

349 (r) "Secretary" means the Secretary of Health and Human
350 Services, and any officer or employee of the Department of Health
351 and Human Services to whom the authority involved has been
352 delegated.

353 (s) "State health plan" means the sole and official
354 statewide health plan for Mississippi which identifies priority
355 state health needs and establishes standards and criteria for
356 health-related activities which require certificate of need review
357 in compliance with Section 41-7-191.

358 (t) "State Health Planning and Development Agency"
359 means the agency of state government designated to perform health
360 planning and resource development programs for the State of
361 Mississippi.

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

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364 41-7-191. (1) No person shall engage in any of the
365 following activities without obtaining the required certificate of
366 need:

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

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

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

395 (d) Offering of the following health services if those
396 services have not been provided on a regular basis by the proposed

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397 provider of such services within the period of twelve (12) months
398 prior to the time such services would be offered:

399 (i) Open heart surgery services;
400 (ii) Cardiac catheterization services;
401 (iii) Comprehensive inpatient rehabilitation
402 services;

403 (iv) Licensed psychiatric services;
404 (v) Licensed chemical dependency services;
405 (vi) Radiation therapy services;
406 (vii) Diagnostic imaging services of an invasive
407 nature, i.e. invasive digital angiography;

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

410 (ix) Home health services;

411 (x) Swing-bed services;

412 (xi) Ambulatory surgical services;

413 (xii) Magnetic resonance imaging services;

414 (xiii) Extracorporeal shock wave lithotripsy

415 services;

416 (xiv) Long-term care hospital services;

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

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

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430 the State Department of Health;

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

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

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

457 (i) Any activity described in paragraphs (a) through
458 (h) if undertaken by any person if that same activity would
459 require certificate of need approval if undertaken by a health
460 care facility;

461 (j) Any capital expenditure or deferred capital
462 expenditure by or on behalf of a health care facility not covered

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463 by paragraphs (a) through (h);

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

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

477 (a) The total number of nursing home beds as defined in
478 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be
479 authorized by such certificates of need issued during the period
480 beginning on July 1, 1989, and ending on June 30, 1999, shall not
481 exceed one thousand four hundred seventy (1,470) beds. The number
482 of nursing home beds authorized under paragraphs (z), (cc), (dd),
483 (ee) and (ff) of this subsection (2) shall not be counted in the
484 limit on the total number of beds provided for in this paragraph
485 (a).

486 (b) The department may issue a certificate of need to
487 any of the hospitals in the state which have a distinct part
488 component of the hospital that was constructed for extended care
489 use (nursing home care) but is not currently licensed to provide
490 nursing home care, which certificate of need will authorize the
491 distinct part component to be operated to provide nursing home
492 care after a license is obtained. The six (6) hospitals which
493 currently have these distinct part components and which are
494 eligible for a certificate of need under this section are:

495 Webster General Hospital in Webster County, Tippah County General

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496 Hospital in Tippah County, Tishomingo County Hospital in
497 Tishomingo County, North Sunflower County Hospital in Sunflower
498 County, H.C. Watkins Hospital in Clarke County and Northwest
499 Regional Medical Center in Coahoma County. Because the facilities
500 to be considered currently exist and no new construction is
501 required, the provision of Section 41-7-193(1) regarding
502 substantial compliance with the projection of need as reported in
503 the 1989 State Health Plan is waived. The total number of nursing
504 home care beds that may be authorized by certificates of need
505 issued under this paragraph shall not exceed one hundred
506 fifty-four (154) beds.

507 (c) The department may issue a certificate of need to
508 any person proposing the new construction of any health care
509 facility defined in subparagraphs (iv) and (vi) of Section
510 41-7-173(h) as part of a life care retirement facility, in any
511 county bordering on the Gulf of Mexico in which is located a
512 National Aeronautics and Space Administration facility, not to
513 exceed forty (40) beds, provided that the owner of the health care
514 facility on July 1, 1994, agrees in writing that no more than
515 twenty (20) of the beds in the health care facility will be
516 certified for participation in the Medicaid program (Section
517 43-13-101 et seq.), and that no claim will be submitted for
518 Medicaid reimbursement for more than twenty (20) patients in the
519 health care facility in any day or for any patient in the health
520 care facility who is in a bed that is not Medicaid-certified.
521 This written agreement by the owner of the health care facility on
522 July 1, 1994, shall be fully binding on any subsequent owner of
523 the health care facility if the ownership of the health care
524 facility is transferred at any time after July 1, 1994. After
525 this written agreement is executed, the Division of Medicaid and
526 the State Department of Health shall not certify more than twenty
527 (20) of the beds in the health care facility for participation in
528 the Medicaid program. If the health care facility violates the

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529 terms of the written agreement by admitting or keeping in the
530 health care facility on a regular or continuing basis more than
531 twenty (20) patients who are participating in the Medicaid
532 program, the State Department of Health shall revoke the license
533 of the health care facility, at the time that the department
534 determines, after a hearing complying with due process, that the
535 health care facility has violated the terms of the written
536 agreement as provided in this paragraph.

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

549 (e) The department may issue a certificate of need for
550 the conversion of existing hospital beds to provide nursing home
551 care in a county hospital in Jasper County that has its own
552 licensed nursing home located adjacent to the hospital. The total
553 number of nursing home care beds that may be authorized by any
554 certificate of need issued under this paragraph shall not exceed
555 twenty (20) beds.

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

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

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

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

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

580 (k) The department may issue certificates of need in
581 Harrison County to provide skilled nursing home care for
582 Alzheimer's Disease patients and other patients, not to exceed one
583 hundred fifty (150) beds, provided that (i) the owner of the
584 health care facility issued a certificate of need for sixty (60)
585 beds agrees in writing that no more than thirty (30) of the beds
586 in the health care facility will be certified for participation in
587 the Medicaid program (Section 43-13-101 et seq.), (ii) the owner
588 of one (1) of the health care facilities issued a certificate of
589 need for forty-five (45) beds agrees in writing that no more than
590 twenty-three (23) of the beds in the health care facility will be
591 certified for participation in the Medicaid program, and (iii) the
592 owner of the other health care facility issued a certificate of
593 need for forty-five (45) beds agrees in writing that no more than
594 twenty-two (22) of the beds in the health care facility will be

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595 certified for participation in the Medicaid program, and that no
596 claim will be submitted for Medicaid reimbursement for a number of
597 patients in the health care facility in any day that is greater
598 than the number of beds certified for participation in the
599 Medicaid program or for any patient in the health care facility
600 who is in a bed that is not Medicaid-certified. These written
601 agreements by the owners of the health care facilities on July 1,
602 1995, shall be fully binding on any subsequent owner of any of the
603 health care facilities if the ownership of any of the health care
604 facilities is transferred at any time after July 1, 1995. After
605 these written agreements are executed, the Division of Medicaid
606 and the State Department of Health shall not certify for
607 participation in the Medicaid program more than the number of beds
608 authorized for participation in the Medicaid program under this
609 paragraph (k) for each respective facility. If any of the health
610 care facilities violates the terms of the written agreement by
611 admitting or keeping in the health care facility on a regular or
612 continuing basis a number of patients that is greater than the
613 number of beds certified for participation in the Medicaid
614 program, the State Department of Health shall revoke the license
615 of the health care facility, at the time that the department
616 determines, after a hearing complying with due process, that the
617 health care facility has violated the terms of the written
618 agreement as provided in this paragraph.

619 (1) The department may issue certificates of need for
620 the new construction of, addition to, or expansion of any skilled
621 nursing facility or intermediate care facility in Jackson County,
622 not to exceed a total of sixty (60) beds.

623 (m) The department may issue a certificate of need for
624 the new construction of, addition to, or expansion of a nursing
625 home, or the conversion of existing hospital beds to provide
626 nursing home care, in Hancock County. The total number of nursing
627 home care beds that may be authorized by any certificate of need

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628 issued under this paragraph shall not exceed sixty (60) beds.

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

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

647 (p) The department shall issue a certificate of need
648 for the construction, expansion or conversion of nursing home
649 care, not to exceed thirty-three (33) beds, in Pontotoc County.
650 The provisions of Section 41-7-193(1) regarding substantial
651 compliance with the projection of need as reported in the current
652 State Health Plan are hereby waived as to such construction,
653 expansion or conversion.

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

660 (r) The department may issue a certificate of need for

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661 the addition to or expansion of any skilled nursing facility that
662 is part of an existing continuing care retirement community
663 located in Madison County, provided that the recipient of the
664 certificate of need agrees in writing that the skilled nursing
665 facility will not at any time participate in the Medicaid program
666 (Section 43-13-101 et seq.) or admit or keep any patients in the
667 skilled nursing facility who are participating in the Medicaid
668 program. This written agreement by the recipient of the
669 certificate of need shall be fully binding on any subsequent owner
670 of the skilled nursing facility, if the ownership of the facility
671 is transferred at any time after the issuance of the certificate
672 of need. Agreement that the skilled nursing facility will not
673 participate in the Medicaid program shall be a condition of the
674 issuance of a certificate of need to any person under this
675 paragraph (r), and if such skilled nursing facility at any time
676 after the issuance of the certificate of need, regardless of the
677 ownership of the facility, participates in the Medicaid program or
678 admits or keeps any patients in the facility who are participating
679 in the Medicaid program, the State Department of Health shall
680 revoke the certificate of need, if it is still outstanding, and
681 shall deny or revoke the license of the skilled nursing facility,
682 at the time that the department determines, after a hearing
683 complying with due process, that the facility has failed to comply
684 with any of the conditions upon which the certificate of need was
685 issued, as provided in this paragraph and in the written agreement
686 by the recipient of the certificate of need. The total number of
687 beds that may be authorized under the authority of this paragraph
688 (r) shall not exceed sixty (60) beds.

689 (s) The State Department of Health may issue a
690 certificate of need to any hospital located in DeSoto County for
691 the new construction of a skilled nursing facility, not to exceed
692 one hundred twenty (120) beds, in DeSoto County, provided that the
693 recipient of the certificate of need agrees in writing that no

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694 more than thirty (30) of the beds in the skilled nursing facility
695 will be certified for participation in the Medicaid program
696 (Section 43-13-101 et seq.), and that no claim will be submitted
697 for Medicaid reimbursement for more than thirty (30) patients in
698 the facility in any day or for any patient in the facility who is
699 in a bed that is not Medicaid-certified. This written agreement
700 by the recipient of the certificate of need shall be a condition
701 of the issuance of the certificate of need under this paragraph,
702 and the agreement shall be fully binding on any subsequent owner
703 of the skilled nursing facility if the ownership of the facility
704 is transferred at any time after the issuance of the certificate
705 of need. After this written agreement is executed, the Division
706 of Medicaid and the State Department of Health shall not certify
707 more than thirty (30) of the beds in the skilled nursing facility
708 for participation in the Medicaid program. If the skilled nursing
709 facility violates the terms of the written agreement by admitting
710 or keeping in the facility on a regular or continuing basis more
711 than thirty (30) patients who are participating in the Medicaid
712 program, the State Department of Health shall revoke the license
713 of the facility, at the time that the department determines, after
714 a hearing complying with due process, that the facility has
715 violated the condition upon which the certificate of need was
716 issued, as provided in this paragraph and in the written
717 agreement. If the skilled nursing facility authorized by the
718 certificate of need issued under this paragraph is not constructed
719 and fully operational within eighteen (18) months after July 1,
720 1994, the State Department of Health, after a hearing complying
721 with due process, shall revoke the certificate of need, if it is
722 still outstanding, and shall not issue a license for the facility
723 at any time after the expiration of the eighteen-month period.

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

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727 facility for the elderly in Lowndes County that is owned and
728 operated by a Mississippi nonprofit corporation, not to exceed
729 sixty (60) beds, provided that the recipient of the certificate of
730 need agrees in writing that no more than thirty (30) of the beds
731 at the facility will be certified for participation in the
732 Medicaid program (Section 43-13-101 et seq.), and that no claim
733 will be submitted for Medicaid reimbursement for more than thirty
734 (30) patients in the facility in any month or for any patient in
735 the facility who is in a bed that is not Medicaid-certified. This
736 written agreement by the recipient of the certificate of need
737 shall be a condition of the issuance of the certificate of need
738 under this paragraph, and the agreement shall be fully binding on
739 any subsequent owner of the facility if the ownership of the
740 facility is transferred at any time after the issuance of the
741 certificate of need. After this written agreement is executed,
742 the Division of Medicaid and the State Department of Health shall
743 not certify more than thirty (30) of the beds in the facility for
744 participation in the Medicaid program. If the facility violates
745 the terms of the written agreement by admitting or keeping in the
746 facility on a regular or continuing basis more than thirty (30)
747 patients who are participating in the Medicaid program, the State
748 Department of Health shall revoke the license of the facility, at
749 the time that the department determines, after a hearing complying
750 with due process, that the facility has violated the condition
751 upon which the certificate of need was issued, as provided in this
752 paragraph and in the written agreement. If the nursing facility
753 or nursing facility beds authorized by the certificate of need
754 issued under this paragraph are not constructed or converted and
755 fully operational within eighteen (18) months after July 1, 1994,
756 the State Department of Health, after a hearing complying with due
757 process, shall revoke the certificate of need, if it is still
758 outstanding, and shall not issue a license for the nursing
759 facility or nursing facility beds at any time after the expiration

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760 of the eighteen-month period.

761 (u) The State Department of Health may issue a
762 certificate of need for conversion of a county hospital facility
763 in Itawamba County to a nursing facility, not to exceed sixty (60)
764 beds, including any necessary construction, renovation or
765 expansion, provided that the recipient of the certificate of need
766 agrees in writing that no more than thirty (30) of the beds at the
767 facility will be certified for participation in the Medicaid
768 program (Section 43-13-101 et seq.), and that no claim will be
769 submitted for Medicaid reimbursement for more than thirty (30)
770 patients in the facility in any day or for any patient in the
771 facility who is in a bed that is not Medicaid-certified. This
772 written agreement by the recipient of the certificate of need
773 shall be a condition of the issuance of the certificate of need
774 under this paragraph, and the agreement shall be fully binding on
775 any subsequent owner of the facility if the ownership of the
776 facility is transferred at any time after the issuance of the
777 certificate of need. After this written agreement is executed,
778 the Division of Medicaid and the State Department of Health shall
779 not certify more than thirty (30) of the beds in the facility for
780 participation in the Medicaid program. If the facility violates
781 the terms of the written agreement by admitting or keeping in the
782 facility on a regular or continuing basis more than thirty (30)
783 patients who are participating in the Medicaid program, the State
784 Department of Health shall revoke the license of the facility, at
785 the time that the department determines, after a hearing complying
786 with due process, that the facility has violated the condition
787 upon which the certificate of need was issued, as provided in this
788 paragraph and in the written agreement. If the beds authorized by
789 the certificate of need issued under this paragraph are not
790 converted to nursing facility beds and fully operational within
791 eighteen (18) months after July 1, 1994, the State Department of
792 Health, after a hearing complying with due process, shall revoke

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793 the certificate of need, if it is still outstanding, and shall not
794 issue a license for the facility at any time after the expiration
795 of the eighteen-month period.

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

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826 authorized by the certificate of need issued under this paragraph
827 are not constructed, expanded or converted and fully operational
828 within thirty-six (36) months after July 1, 1994, the State
829 Department of Health, after a hearing complying with due process,
830 shall revoke the certificate of need, if it is still outstanding,
831 and shall not issue a license for the nursing facility or nursing
832 facility beds at any time after the expiration of the
833 thirty-six-month period.

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

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859 facility, at the time that the department determines, after a
860 hearing complying with due process, that the nursing facility has
861 violated the condition upon which the certificate of need was
862 issued, as provided in this paragraph and in the written
863 agreement. If the nursing facility or nursing facility beds
864 authorized by the certificate of need issued under this paragraph
865 are not constructed, expanded or converted and fully operational
866 within thirty-six (36) months after July 1, 1994, the State
867 Department of Health, after a hearing complying with due process,
868 shall revoke the certificate of need, if it is still outstanding,
869 and shall not issue a license for the nursing facility or nursing
870 facility beds at any time after the expiration of the
871 thirty-six-month period.

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

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

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

921 (z) The department may issue certificates of need to
922 allow any existing freestanding long-term care facility in
923 Tishomingo County and Hancock County that on July 1, 1995, is
924 licensed with fewer than sixty (60) beds to increase the number of

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

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

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

984 (bb) Provided that funds are specifically appropriated
985 therefor by the Legislature, the department may issue a
986 certificate of need to a rehabilitation hospital in Hinds County
987 for the construction of a sixty-bed long-term care nursing
988 facility dedicated to the care and treatment of persons with
989 severe disabilities including persons with spinal cord and
990 closed-head injuries and ventilator-dependent patients. The

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991 provision of Section 41-7-193(1) regarding substantial compliance
992 with projection of need as reported in the current State Health
993 Plan is hereby waived for the purpose of this paragraph.

994 (cc) The State Department of Health may issue a
995 certificate of need to a county-owned hospital in the Second
996 Judicial District of Panola County for the conversion of not more
997 than seventy-two (72) hospital beds to nursing facility beds,
998 provided that the recipient of the certificate of need agrees in
999 writing that none of the beds at the nursing facility will be
1000 certified for participation in the Medicaid program (Section
1001 43-13-101 et seq.), and that no claim will be submitted for
1002 Medicaid reimbursement in the nursing facility in any day or for
1003 any patient in the nursing facility. This written agreement by
1004 the recipient of the certificate of need shall be a condition of
1005 the issuance of the certificate of need under this paragraph, and
1006 the agreement shall be fully binding on any subsequent owner of
1007 the nursing facility if the ownership of the nursing facility is
1008 transferred at any time after the issuance of the certificate of
1009 need. After this written agreement is executed, the Division of
1010 Medicaid and the State Department of Health shall not certify any
1011 of the beds in the nursing facility for participation in the
1012 Medicaid program. If the nursing facility violates the terms of
1013 the written agreement by admitting or keeping in the nursing
1014 facility on a regular or continuing basis any patients who are
1015 participating in the Medicaid program, the State Department of
1016 Health shall revoke the license of the nursing facility, at the
1017 time that the department determines, after a hearing complying
1018 with due process, that the nursing facility has violated the
1019 condition upon which the certificate of need was issued, as
1020 provided in this paragraph and in the written agreement. If the
1021 certificate of need authorized under this paragraph is not issued
1022 within twelve (12) months after July 1, 1998, the department shall
1023 deny the application for the certificate of need and shall not

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1024 issue the certificate of need at any time after the twelve-month
1025 period, unless the issuance is contested. If the certificate of
1026 need is issued and substantial construction of the nursing
1027 facility beds has not commenced within eighteen (18) months after
1028 July 1, 1998, the State Department of Health, after a hearing
1029 complying with due process, shall revoke the certificate of need
1030 if it is still outstanding, and the department shall not issue a
1031 license for the nursing facility at any time after the
1032 eighteen-month period. Provided, however, that if the issuance of
1033 the certificate of need is contested, the department shall require
1034 substantial construction of the nursing facility beds within six
1035 (6) months after final adjudication on the issuance of the
1036 certificate of need.

1037 (dd) The department may issue a certificate of need for
1038 the new construction, addition or conversion of skilled nursing
1039 facility beds in Madison County, provided that the recipient of
1040 the certificate of need agrees in writing that the skilled nursing
1041 facility will not at any time participate in the Medicaid program
1042 (Section 43-13-101 et seq.) or admit or keep any patients in the
1043 skilled nursing facility who are participating in the Medicaid
1044 program. This written agreement by the recipient of the
1045 certificate of need shall be fully binding on any subsequent owner
1046 of the skilled nursing facility, if the ownership of the facility
1047 is transferred at any time after the issuance of the certificate
1048 of need. Agreement that the skilled nursing facility will not
1049 participate in the Medicaid program shall be a condition of the
1050 issuance of a certificate of need to any person under this
1051 paragraph (dd), and if such skilled nursing facility at any time
1052 after the issuance of the certificate of need, regardless of the
1053 ownership of the facility, participates in the Medicaid program or
1054 admits or keeps any patients in the facility who are participating
1055 in the Medicaid program, the State Department of Health shall
1056 revoke the certificate of need, if it is still outstanding, and

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1057 shall deny or revoke the license of the skilled nursing facility,
1058 at the time that the department determines, after a hearing
1059 complying with due process, that the facility has failed to comply
1060 with any of the conditions upon which the certificate of need was
1061 issued, as provided in this paragraph and in the written agreement
1062 by the recipient of the certificate of need. The total number of
1063 nursing facility beds that may be authorized by any certificate of
1064 need issued under this paragraph (dd) shall not exceed sixty (60)
1065 beds. If the certificate of need authorized under this paragraph
1066 is not issued within twelve (12) months after July 1, 1998, the
1067 department shall deny the application for the certificate of need
1068 and shall not issue the certificate of need at any time after the
1069 twelve-month period, unless the issuance is contested. If the
1070 certificate of need is issued and substantial construction of the
1071 nursing facility beds has not commenced within eighteen (18)
1072 months after July 1, 1998, the State Department of Health, after a
1073 hearing complying with due process, shall revoke the certificate
1074 of need if it is still outstanding, and the department shall not
1075 issue a license for the nursing facility at any time after the
1076 eighteen-month period. Provided, however, that if the issuance of
1077 the certificate of need is contested, the department shall require
1078 substantial construction of the nursing facility beds within six
1079 (6) months after final adjudication on the issuance of the
1080 certificate of need.

1081 (ee) The department may issue a certificate of need for
1082 the new construction, addition or conversion of skilled nursing
1083 facility beds in Leake County, provided that the recipient of the
1084 certificate of need agrees in writing that the skilled nursing
1085 facility will not at any time participate in the Medicaid program
1086 (Section 43-13-101 et seq.) or admit or keep any patients in the
1087 skilled nursing facility who are participating in the Medicaid
1088 program. This written agreement by the recipient of the
1089 certificate of need shall be fully binding on any subsequent owner

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1090 of the skilled nursing facility, if the ownership of the facility
1091 is transferred at any time after the issuance of the certificate
1092 of need. Agreement that the skilled nursing facility will not
1093 participate in the Medicaid program shall be a condition of the
1094 issuance of a certificate of need to any person under this
1095 paragraph (ee), and if such skilled nursing facility at any time
1096 after the issuance of the certificate of need, regardless of the
1097 ownership of the facility, participates in the Medicaid program or
1098 admits or keeps any patients in the facility who are participating
1099 in the Medicaid program, the State Department of Health shall
1100 revoke the certificate of need, if it is still outstanding, and
1101 shall deny or revoke the license of the skilled nursing facility,
1102 at the time that the department determines, after a hearing
1103 complying with due process, that the facility has failed to comply
1104 with any of the conditions upon which the certificate of need was
1105 issued, as provided in this paragraph and in the written agreement
1106 by the recipient of the certificate of need. The total number of
1107 nursing facility beds that may be authorized by any certificate of
1108 need issued under this paragraph (ee) shall not exceed sixty (60)
1109 beds. If the certificate of need authorized under this paragraph
1110 is not issued within twelve (12) months after July 1, 1998, the
1111 department shall deny the application for the certificate of need
1112 and shall not issue the certificate of need at any time after the
1113 twelve-month period, unless the issuance is contested. If the
1114 certificate of need is issued and substantial construction of the
1115 nursing facility beds has not commenced within eighteen (18)
1116 months after July 1, 1998, the State Department of Health, after a
1117 hearing complying with due process, shall revoke the certificate
1118 of need if it is still outstanding, and the department shall not
1119 issue a license for the nursing facility at any time after the
1120 eighteen-month period. Provided, however, that if the issuance of
1121 the certificate of need is contested, the department shall require
1122 substantial construction of the nursing facility beds within six

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1123 (6) months after final adjudication on the issuance of the
1124 certificate of need.

1125 (ff) The department may issue a certificate of need for
1126 the construction of a municipally-owned nursing facility within
1127 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1128 beds, provided that the recipient of the certificate of need
1129 agrees in writing that the skilled nursing facility will not at
1130 any time participate in the Medicaid program (Section 43-13-101 et
1131 seq.) or admit or keep any patients in the skilled nursing
1132 facility who are participating in the Medicaid program. This
1133 written agreement by the recipient of the certificate of need
1134 shall be fully binding on any subsequent owner of the skilled
1135 nursing facility, if the ownership of the facility is transferred
1136 at any time after the issuance of the certificate of need.
1137 Agreement that the skilled nursing facility will not participate
1138 in the Medicaid program shall be a condition of the issuance of a
1139 certificate of need to any person under this paragraph (ff), and
1140 if such skilled nursing facility at any time after the issuance of
1141 the certificate of need, regardless of the ownership of the
1142 facility, participates in the Medicaid program or admits or keeps
1143 any patients in the facility who are participating in the Medicaid
1144 program, the State Department of Health shall revoke the
1145 certificate of need, if it is still outstanding, and shall deny or
1146 revoke the license of the skilled nursing facility, at the time
1147 that the department determines, after a hearing complying with due
1148 process, that the facility has failed to comply with any of the
1149 conditions upon which the certificate of need was issued, as
1150 provided in this paragraph and in the written agreement by the
1151 recipient of the certificate of need. The provision of Section
1152 43-7-193(1) regarding substantial compliance of the projection of
1153 need as reported in the current State Health Plan is waived for
1154 the purposes of this paragraph. If the certificate of need
1155 authorized under this paragraph is not issued within twelve (12)

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1156 months after July 1, 1998, the department shall deny the
1157 application for the certificate of need and shall not issue the
1158 certificate of need at any time after the twelve-month period,
1159 unless the issuance is contested. If the certificate of need is
1160 issued and substantial construction of the nursing facility beds
1161 has not commenced within eighteen (18) months after July 1, 1998,
1162 the State Department of Health, after a hearing complying with due
1163 process, shall revoke the certificate of need if it is still
1164 outstanding, and the department shall not issue a license for the
1165 nursing facility at any time after the eighteen-month period.
1166 Provided, however, that if the issuance of the certificate of need
1167 is contested, the department shall require substantial
1168 construction of the nursing facility beds within six (6) months
1169 after final adjudication on the issuance of the certificate of
1170 need.

1171 (3) If the holder of the certificate of need that was issued
1172 before January 1, 1990, for the construction of a nursing home in
1173 Claiborne County has not substantially undertaken commencement of
1174 construction by completing site works and pouring foundations and
1175 the floor slab of a nursing home in Claiborne County before May 1,
1176 1990, as determined by the department, then the department shall
1177 transfer such certificate of need to the Board of Supervisors of
1178 Claiborne County upon the effective date of this subsection (3).
1179 If the certificate of need is transferred to the board of
1180 supervisors, it shall be valid for a period of twelve (12) months
1181 and shall authorize the construction of a sixty-bed nursing home
1182 on county-owned property or the conversion of vacant hospital beds
1183 in the county hospital not to exceed sixty (60) beds.

1184 (4) The State Department of Health may grant approval for
1185 and issue certificates of need to any person proposing the new
1186 construction of, addition to, conversion of beds of or expansion
1187 of any health care facility defined in subparagraph (x)
1188 (psychiatric residential treatment facility) of Section

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1189 41-7-173(h). The total number of beds which may be authorized by
1190 such certificates of need shall not exceed two hundred
1191 seventy-four (274) beds for the entire state.

1192 (a) Of the total number of beds authorized under this
1193 subsection, the department shall issue a certificate of need to a
1194 privately owned psychiatric residential treatment facility in
1195 Simpson County for the conversion of sixteen (16) intermediate
1196 care facility for the mentally retarded (ICF-MR) beds to
1197 psychiatric residential treatment facility beds, provided that
1198 facility agrees in writing that the facility shall give priority
1199 for the use of those sixteen (16) beds to Mississippi residents
1200 who are presently being treated in out-of-state facilities.

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

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1222 transferred at any time after the issuance of the certificate of
1223 need. After this written agreement is executed, the Division of
1224 Medicaid and the State Department of Health shall not certify more
1225 than thirty (30) of the beds in the psychiatric residential
1226 treatment facility for participation in the Medicaid program for
1227 the use of any patients other than those who are participating
1228 only in the Medicaid program of another state. If the psychiatric
1229 residential treatment facility violates the terms of the written
1230 agreement by admitting or keeping in the facility on a regular or
1231 continuing basis more than thirty (30) patients who are
1232 participating in the Mississippi Medicaid program, the State
1233 Department of Health shall revoke the license of the facility, at
1234 the time that the department determines, after a hearing complying
1235 with due process, that the facility has violated the condition
1236 upon which the certificate of need was issued, as provided in this
1237 paragraph and in the written agreement.

1238 (c) Of the total number of beds authorized under this
1239 subsection, the department shall issue a certificate of need to a
1240 hospital currently operating Medicaid-certified acute psychiatric
1241 beds for adolescents in DeSoto County, for the establishment of a
1242 forty-bed psychiatric residential treatment facility in DeSoto
1243 County, provided that the hospital agrees in writing (i) that the
1244 hospital shall give priority for the use of those forty (40) beds
1245 to Mississippi residents who are presently being treated in
1246 out-of-state facilities, and (ii) that no more than fifteen (15)
1247 of the beds at the psychiatric residential treatment facility will
1248 be certified for participation in the Medicaid program (Section
1249 43-13-101 et seq.), and that no claim will be submitted for
1250 Medicaid reimbursement for more than fifteen (15) patients in the
1251 psychiatric residential treatment facility in any day or for any
1252 patient in the psychiatric residential treatment facility who is
1253 in a bed that is not Medicaid-certified. This written agreement
1254 by the recipient of the certificate of need shall be a condition

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1255 of the issuance of the certificate of need under this paragraph,
1256 and the agreement shall be fully binding on any subsequent owner
1257 of the psychiatric residential treatment facility if the ownership
1258 of the facility is transferred at any time after the issuance of
1259 the certificate of need. After this written agreement is
1260 executed, the Division of Medicaid and the State Department of
1261 Health shall not certify more than fifteen (15) of the beds in the
1262 psychiatric residential treatment facility for participation in
1263 the Medicaid program. If the psychiatric residential treatment
1264 facility violates the terms of the written agreement by admitting
1265 or keeping in the facility on a regular or continuing basis more
1266 than fifteen (15) patients who are participating in the Medicaid
1267 program, the State Department of Health shall revoke the license
1268 of the facility, at the time that the department determines, after
1269 a hearing complying with due process, that the facility has
1270 violated the condition upon which the certificate of need was
1271 issued, as provided in this paragraph and in the written
1272 agreement.

1273 (d) Of the total number of beds authorized under this
1274 subsection, the department may issue a certificate or certificates
1275 of need for the construction or expansion of psychiatric
1276 residential treatment facility beds or the conversion of other
1277 beds to psychiatric treatment facility beds, not to exceed thirty
1278 (30) psychiatric residential treatment facility beds, in either
1279 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1280 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

1281 (e) Of the total number of beds authorized under this
1282 subsection (4) the department shall issue a certificate of need to
1283 a privately owned, nonprofit psychiatric residential treatment
1284 facility in Hinds County for an eight-bed expansion of the
1285 facility, provided that the facility agrees in writing that the
1286 facility shall give priority for the use of those eight (8) beds
1287 to Mississippi residents who are presently being treated in

1288 out-of-state facilities.

1289 (5) (a) From and after July 1, 1993, the department shall
1290 not issue a certificate of need to any person for the new
1291 construction of any hospital, psychiatric hospital or chemical
1292 dependency hospital that will contain any child/adolescent
1293 psychiatric or child/adolescent chemical dependency beds, or for
1294 the conversion of any other health care facility to a hospital,
1295 psychiatric hospital or chemical dependency hospital that will
1296 contain any child/adolescent psychiatric or child/adolescent
1297 chemical dependency beds, or for the addition of any
1298 child/adolescent psychiatric or child/adolescent chemical
1299 dependency beds in any hospital, psychiatric hospital or chemical
1300 dependency hospital, or for the conversion of any beds of another
1301 category in any hospital, psychiatric hospital or chemical
1302 dependency hospital to child/adolescent psychiatric or
1303 child/adolescent chemical dependency beds, except as hereinafter
1304 authorized:

1305 (i) The department may issue certificates of need
1306 to any person for any purpose described in this subsection,
1307 provided that the hospital, psychiatric hospital or chemical
1308 dependency hospital does not participate in the Medicaid program
1309 (Section 43-13-101 et seq.) at the time of the application for the
1310 certificate of need and the owner of the hospital, psychiatric
1311 hospital or chemical dependency hospital agrees in writing that
1312 the hospital, psychiatric hospital or chemical dependency hospital
1313 will not at any time participate in the Medicaid program or admit
1314 or keep any patients who are participating in the Medicaid program
1315 in the hospital, psychiatric hospital or chemical dependency
1316 hospital. This written agreement by the recipient of the
1317 certificate of need shall be fully binding on any subsequent owner
1318 of the hospital, psychiatric hospital or chemical dependency
1319 hospital, if the ownership of the facility is transferred at any
1320 time after the issuance of the certificate of need. Agreement

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1321 that the hospital, psychiatric hospital or chemical dependency
1322 hospital will not participate in the Medicaid program shall be a
1323 condition of the issuance of a certificate of need to any person
1324 under this subparagraph (a)(i), and if such hospital, psychiatric
1325 hospital or chemical dependency hospital at any time after the
1326 issuance of the certificate of need, regardless of the ownership
1327 of the facility, participates in the Medicaid program or admits or
1328 keeps any patients in the hospital, psychiatric hospital or
1329 chemical dependency hospital who are participating in the Medicaid
1330 program, the State Department of Health shall revoke the
1331 certificate of need, if it is still outstanding, and shall deny or
1332 revoke the license of the hospital, psychiatric hospital or
1333 chemical dependency hospital, at the time that the department
1334 determines, after a hearing complying with due process, that the
1335 hospital, psychiatric hospital or chemical dependency hospital has
1336 failed to comply with any of the conditions upon which the
1337 certificate of need was issued, as provided in this subparagraph
1338 and in the written agreement by the recipient of the certificate
1339 of need.

1340 (ii) The department may issue a certificate of
1341 need for the conversion of existing beds in a county hospital in
1342 Choctaw County from acute care beds to child/adolescent chemical
1343 dependency beds. For purposes of this paragraph, the provisions
1344 of Section 41-7-193(1) requiring substantial compliance with the
1345 projection of need as reported in the current State Health Plan is
1346 waived. The total number of beds that may be authorized under
1347 authority of this paragraph shall not exceed twenty (20) beds.
1348 There shall be no prohibition or restrictions on participation in
1349 the Medicaid program (Section 43-13-101 et seq.) for the hospital
1350 receiving the certificate of need authorized under this
1351 subparagraph (a)(ii) or for the beds converted pursuant to the
1352 authority of that certificate of need.

1353 (iii) The department may issue a certificate or

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1354 certificates of need for the construction or expansion of
1355 child/adolescent psychiatric beds or the conversion of other beds
1356 to child/adolescent psychiatric beds in Warren County. For
1357 purposes of this subparagraph, the provisions of Section
1358 41-7-193(1) requiring substantial compliance with the projection
1359 of need as reported in the current State Health Plan are waived.

1360 The total number of beds that may be authorized under the
1361 authority of this subparagraph shall not exceed twenty (20) beds.

1362 There shall be no prohibition or restrictions on participation in
1363 the Medicaid program (Section 43-13-101 et seq.) for the person
1364 receiving the certificate of need authorized under this
1365 subparagraph (a)(iii) or for the beds converted pursuant to the
1366 authority of that certificate of need.

1367 (iv) The department shall issue a certificate of
1368 need to the Region 7 Mental Health/Retardation Commission for the
1369 construction or expansion of child/adolescent psychiatric beds or
1370 the conversion of other beds to child/adolescent psychiatric beds
1371 in any of the counties served by the commission. For purposes of
1372 this subparagraph, the provisions of Section 41-7-193(1) requiring
1373 substantial compliance with the projection of need as reported in
1374 the current State Health Plan is waived. The total number of beds
1375 that may be authorized under the authority of this subparagraph
1376 shall not exceed twenty (20) beds. There shall be no prohibition
1377 or restrictions on participation in the Medicaid program (Section
1378 43-13-101 et seq.) for the person receiving the certificate of
1379 need authorized under this subparagraph (a)(iv) or for the beds
1380 converted pursuant to the authority of that certificate of need.

1381 (v) The department may issue a certificate of need
1382 to any county hospital located in Leflore County for the
1383 construction or expansion of adult psychiatric beds or the
1384 conversion of other beds to adult psychiatric beds, not to exceed
1385 twenty (20) beds, provided that the recipient of the certificate
1386 of need agrees in writing that the adult psychiatric beds will not

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1387 at any time be certified for participation in the Medicaid program
1388 and that the hospital will not admit or keep any patients who are
1389 participating in the Medicaid program in any of such adult
1390 psychiatric beds. This written agreement by the recipient of the
1391 certificate of need shall be fully binding on any subsequent owner
1392 of the hospital if the ownership of the hospital is transferred at
1393 any time after the issuance of the certificate of need. Agreement
1394 that the adult psychiatric beds will not be certified for
1395 participation in the Medicaid program shall be a condition of the
1396 issuance of a certificate of need to any person under this
1397 subparagraph (a)(v), and if such hospital at any time after the
1398 issuance of the certificate of need, regardless of the ownership
1399 of the hospital, has any of such adult psychiatric beds certified
1400 for participation in the Medicaid program or admits or keeps any
1401 Medicaid patients in such adult psychiatric beds, the State
1402 Department of Health shall revoke the certificate of need, if it
1403 is still outstanding, and shall deny or revoke the license of the
1404 hospital at the time that the department determines, after a
1405 hearing complying with due process, that the hospital has failed
1406 to comply with any of the conditions upon which the certificate of
1407 need was issued, as provided in this subparagraph and in the
1408 written agreement by the recipient of the certificate of need.

1409 (b) From and after July 1, 1990, no hospital,
1410 psychiatric hospital or chemical dependency hospital shall be
1411 authorized to add any child/adolescent psychiatric or
1412 child/adolescent chemical dependency beds or convert any beds of
1413 another category to child/adolescent psychiatric or
1414 child/adolescent chemical dependency beds without a certificate of
1415 need under the authority of subsection (1)(c) of this section.

1416 (6) The department may issue a certificate of need to a
1417 county hospital in Winston County for the conversion of fifteen
1418 (15) acute care beds to geriatric psychiatric care beds.

1419 (7) The State Department of Health shall issue a certificate

1420 of need to a Mississippi corporation qualified to manage a
1421 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1422 Harrison County, not to exceed eighty (80) beds, including any
1423 necessary renovation or construction required for licensure and
1424 certification, provided that the recipient of the certificate of
1425 need agrees in writing that the long-term care hospital will not
1426 at any time participate in the Medicaid program (Section 43-13-101
1427 et seq.) or admit or keep any patients in the long-term care
1428 hospital who are participating in the Medicaid program. This
1429 written agreement by the recipient of the certificate of need
1430 shall be fully binding on any subsequent owner of the long-term
1431 care hospital, if the ownership of the facility is transferred at
1432 any time after the issuance of the certificate of need. Agreement
1433 that the long-term care hospital will not participate in the
1434 Medicaid program shall be a condition of the issuance of a
1435 certificate of need to any person under this subsection (7), and
1436 if such long-term care hospital at any time after the issuance of
1437 the certificate of need, regardless of the ownership of the
1438 facility, participates in the Medicaid program or admits or keeps
1439 any patients in the facility who are participating in the Medicaid
1440 program, the State Department of Health shall revoke the
1441 certificate of need, if it is still outstanding, and shall deny or
1442 revoke the license of the long-term care hospital, at the time
1443 that the department determines, after a hearing complying with due
1444 process, that the facility has failed to comply with any of the
1445 conditions upon which the certificate of need was issued, as
1446 provided in this paragraph and in the written agreement by the
1447 recipient of the certificate of need. For purposes of this
1448 paragraph, the provision of Section 41-7-193(1) requiring
1449 substantial compliance with the projection of need as reported in
1450 the current State Health Plan is hereby waived.

1451 (8) The State Department of Health may issue a certificate
1452 of need to any hospital in the state to utilize a portion of its

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1453 beds for the "swing-bed" concept. Any such hospital must be in
1454 conformance with the federal regulations regarding such swing-bed
1455 concept at the time it submits its application for a certificate
1456 of need to the State Department of Health, except that such
1457 hospital may have more licensed beds or a higher average daily
1458 census (ADC) than the maximum number specified in federal
1459 regulations for participation in the swing-bed program. Any
1460 hospital meeting all federal requirements for participation in the
1461 swing-bed program which receives such certificate of need shall
1462 render services provided under the swing-bed concept to any
1463 patient eligible for Medicare (Title XVIII of the Social Security
1464 Act) who is certified by a physician to be in need of such
1465 services, and no such hospital shall permit any patient who is
1466 eligible for both Medicaid and Medicare or eligible only for
1467 Medicaid to stay in the swing beds of the hospital for more than
1468 thirty (30) days per admission unless the hospital receives prior
1469 approval for such patient from the Division of Medicaid, Office of
1470 the Governor. Any hospital having more licensed beds or a higher
1471 average daily census (ADC) than the maximum number specified in
1472 federal regulations for participation in the swing-bed program
1473 which receives such certificate of need shall develop a procedure
1474 to insure that before a patient is allowed to stay in the swing
1475 beds of the hospital, there are no vacant nursing home beds
1476 available for that patient located within a fifty-mile radius of
1477 the hospital. When any such hospital has a patient staying in the
1478 swing beds of the hospital and the hospital receives notice from a
1479 nursing home located within such radius that there is a vacant bed
1480 available for that patient, the hospital shall transfer the
1481 patient to the nursing home within a reasonable time after receipt
1482 of the notice. Any hospital which is subject to the requirements
1483 of the two (2) preceding sentences of this paragraph may be
1484 suspended from participation in the swing-bed program for a
1485 reasonable period of time by the State Department of Health if the

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1486 department, after a hearing complying with due process, determines
1487 that the hospital has failed to comply with any of those
1488 requirements.

1489 (9) The Department of Health shall not grant approval for or
1490 issue a certificate of need to any person proposing the new
1491 construction of, addition to or expansion of a health care
1492 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1493 (10) The Department of Health shall not grant approval for
1494 or issue a certificate of need to any person proposing the
1495 establishment of, or expansion of the currently approved territory
1496 of, or the contracting to establish a home office, subunit or
1497 branch office within the space operated as a health care facility
1498 as defined in Section 41-7-173(h)(i) through (viii) by a health
1499 care facility as defined in subparagraph (ix) of Section
1500 41-7-173(h).

1501 (11) Health care facilities owned and/or operated by the
1502 state or its agencies are exempt from the restraints in this
1503 section against issuance of a certificate of need if such addition
1504 or expansion consists of repairing or renovation necessary to
1505 comply with the state licensure law. This exception shall not
1506 apply to the new construction of any building by such state
1507 facility. This exception shall not apply to any health care
1508 facilities owned and/or operated by counties, municipalities,
1509 districts, unincorporated areas, other defined persons, or any
1510 combination thereof.

1511 (12) The new construction, renovation or expansion of or
1512 addition to any health care facility defined in subparagraph (ii)
1513 (psychiatric hospital), subparagraph (iv) (skilled nursing
1514 facility), subparagraph (vi) (intermediate care facility),
1515 subparagraph (viii) (intermediate care facility for the mentally
1516 retarded) and subparagraph (x) (psychiatric residential treatment
1517 facility) of Section 41-7-173(h) which is owned by the State of
1518 Mississippi and under the direction and control of the State

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1519 Department of Mental Health, and the addition of new beds or the
1520 conversion of beds from one category to another in any such
1521 defined health care facility which is owned by the State of
1522 Mississippi and under the direction and control of the State
1523 Department of Mental Health, shall not require the issuance of a
1524 certificate of need under Section 41-7-171 et seq.,
1525 notwithstanding any provision in Section 41-7-171 et seq. to the
1526 contrary.

1527 (13) The new construction, renovation or expansion of or
1528 addition to any veterans homes or domiciliaries for eligible
1529 veterans of the State of Mississippi as authorized under Section
1530 35-1-19 shall not require the issuance of a certificate of need,
1531 notwithstanding any provision in Section 41-7-171 et seq. to the
1532 contrary.

1533 (14) The new construction of a nursing facility or nursing
1534 facility beds or the conversion of other beds to nursing facility
1535 beds shall not require the issuance of a certificate of need,
1536 notwithstanding any provision in Section 41-7-171 et seq. to the
1537 contrary, if the conditions of this subsection are met.

1538 (a) Before any construction or conversion may be
1539 undertaken without a certificate of need, the owner of the nursing
1540 facility, in the case of an existing facility, or the applicant to
1541 construct a nursing facility, in the case of new construction,
1542 first must file a written notice of intent and sign a written
1543 agreement with the State Department of Health that the entire
1544 nursing facility will not at any time participate in or have any
1545 beds certified for participation in the Medicaid program (Section
1546 43-13-101 et seq.), will not admit or keep any patients in the
1547 nursing facility who are participating in the Medicaid program,
1548 and will not submit any claim for Medicaid reimbursement for any
1549 patient in the facility. This written agreement by the owner or
1550 applicant shall be a condition of exercising the authority under
1551 this subsection without a certificate of need, and the agreement

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1552 shall be fully binding on any subsequent owner of the nursing
1553 facility if the ownership of the facility is transferred at any
1554 time after the agreement is signed. After the written agreement
1555 is signed, the Division of Medicaid and the State Department of
1556 Health shall not certify any beds in the nursing facility for
1557 participation in the Medicaid program. If the nursing facility
1558 violates the terms of the written agreement by participating in
1559 the Medicaid program, having any beds certified for participation
1560 in the Medicaid program, admitting or keeping any patient in the
1561 facility who is participating in the Medicaid program, or
1562 submitting any claim for Medicaid reimbursement for any patient in
1563 the facility, the State Department of Health shall revoke the
1564 license of the nursing facility at the time that the department
1565 determines, after a hearing complying with due process, that the
1566 facility has violated the terms of the written agreement.

1567 (b) For the purposes of this subsection, participation
1568 in the Medicaid program by a nursing facility includes Medicaid
1569 reimbursement of coinsurance and deductibles for recipients who
1570 are qualified Medicare beneficiaries and/or those who are dually
1571 eligible. Any nursing facility exercising the authority under
1572 this subsection may not bill or submit a claim to the Division of
1573 Medicaid for services to qualified Medicare beneficiaries and/or
1574 those who are dually eligible.

1575 (c) The new construction of a nursing facility or
1576 nursing facility beds or the conversion of other beds to nursing
1577 facility beds described in this section must be either a part of a
1578 completely new continuing care retirement community, as described
1579 in the latest edition of the Mississippi State Health Plan, or an
1580 addition to existing personal care and independent living
1581 components, and so that the completed project will be a continuing
1582 care retirement community, containing (i) independent living
1583 accommodations, (ii) personal care beds, and (iii) the nursing
1584 home facility beds. The three (3) components must be located on a

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1585 single site and be operated as one (1) inseparable facility. The
1586 nursing facility component must contain a minimum of thirty (30)
1587 beds. Any nursing facility beds authorized by this section will
1588 not be counted against the bed need set forth in the State Health
1589 Plan, as identified in Section 41-7-171 et seq.

1590 This subsection (14) shall stand repealed from and after July
1591 1, 2001.

1592 SECTION 3. Section 9 of Chapter 482, Laws of 1982, as
1593 amended by Chapter 306, Laws of 1984, as amended by Chapter 437,
1594 Laws of 1986, as amended by Chapter 515, Laws of 1987, is brought
1595 forward as follows:

1596 Section 9. (1) The State Department of Health is hereby
1597 authorized and empowered to assess fees for reviewing applications
1598 for certificates of need. The State Department of Health shall
1599 promulgate such rules and regulations as are necessary to
1600 effectuate the intent of this section in keeping with the
1601 standards hereinbelow:

1602 (a) The fees assessed shall be uniform to all
1603 applicants.

1604 (b) The fees assessed shall be nonrefundable.

1605 (c) The fee shall be five tenths of one percent (.5 of
1606 1%) of the amount of a proposed capital expenditure.

1607 (d) The minimum fee shall not be less than Five Hundred
1608 Dollars (\$500.00) regardless of the amount of the proposed capital
1609 expenditure, and the maximum fee permitted shall not exceed
1610 Twenty-five Thousand Dollars (\$25,000.00), regardless of category.

1611 (e) No application shall be deemed complete for the
1612 review process until such required fee is received by the State
1613 Department of Health.

1614 (f) The required fee shall be paid to the State
1615 Department of Health and may be paid by check, draft or money
1616 order.

1617 (g) There shall be no filing fee requirement for any

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1618 application submitted by an agency, department, institution or
1619 facility which is operated, owned by and/or controlled by the
1620 State of Mississippi and which received operating and/or capital
1621 expenditure funds solely by appropriations from the Legislature of
1622 the state.

1623 (h) There shall be no filing fee requirement for any
1624 application for repairs or renovations determined by the State
1625 Department of Health in writing, to be necessary in order to avoid
1626 revocation of license and/or loss of certification for
1627 participation in the Medicaid and/or Medicare programs. Any
1628 proposed expenditure in excess of the amount determined by the
1629 State Department of Health to be necessary to accomplish the
1630 stated purposes shall be subject to the fee requirements of this
1631 section.

1632 (2) The revenue derived from the fees imposed in subsection
1633 (1) of this section shall be deposited by the State Department of
1634 Health in a special fund, hereby created in the State Treasury,
1635 which is earmarked for use by the State Department of Health in
1636 conducting its health planning and certificate of need review
1637 activities. It is the intent of the Legislature that the health
1638 planning and certificate of need programs be continued for the
1639 protection of the individuals within the state requiring health
1640 care.

1641 (3) The State Department of Health is authorized and
1642 empowered to assess fees for reviewing applications for
1643 certificates of authority for health maintenance organizations and
1644 for the issuance and renewal of such certificates of authority.
1645 The fees assessed shall be uniform to all applicants and to all
1646 holders of certificates of authority, and shall be nonrefundable.
1647 The fees for applications, original certificates of authority and
1648 renewals of certificates of authority shall not exceed Five
1649 Thousand Dollars (\$5,000.00) each. The revenues derived from the
1650 fees assessed under this subsection shall be deposited by the

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1651 department in a special fund hereby created in the State Treasury,
1652 which is earmarked for the use of the department in its regulation
1653 of the operation of health maintenance organizations.

1654 SECTION 4. Section 41-7-202, Mississippi Code of 1972, is
1655 amended as follows:

1656 41-7-202. (1) There shall be a "stay of proceedings" of any
1657 written decision of the State Department of Health pertaining to a
1658 certificate of need for a home health agency, as defined in
1659 Section 41-7-173(h)(ix), for a period of thirty (30) days from the
1660 date of that decision. The stay of proceedings shall expire at
1661 the termination of thirty (30) days; however, no license to
1662 operate any such home health agency that is the subject of the
1663 decision shall be issued by the licensing agency, and no
1664 certification for such home health agency to participate in the
1665 Title XVIII or Title XIX programs of the Social Security Act shall
1666 be granted until all statutory appeals have been exhausted or the
1667 time for such appeals has expired. * * *

1668 (2) There shall be a "stay of proceedings" of any final
1669 order of the State Department of Health for a period of thirty
1670 (30) days from the date of that order. The stay of proceedings
1671 shall expire at the termination of thirty (30) days; however, no
1672 construction, renovation or other capital expenditure that is the
1673 subject of the order shall be undertaken, no license to operate
1674 any facility that is the subject of the order shall be issued by
1675 the licensing agency, and no certification to participate in the
1676 Title XVIII or Title XIX programs of the Social Security Act shall
1677 be granted, until all statutory appeals have been exhausted or the
1678 time for such appeals has expired. Notwithstanding the foregoing,
1679 the filing of an appeal of a final order of the State Department
1680 of Health or of the chancery court regarding the issuance of a
1681 Certificate of Need shall not act as a stay of a project that is
1682 the subject of a Certificate of Need with a capital expenditure of
1683 Five Million Dollars (\$5,000,000.00) or less. This subsection

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1684 applies to Certificate of Need applications filed on or after July
1685 1, 1999.

1686 SECTION 5. This act shall take effect and be in force from
1687 and after July 1, 1999.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE AMOUNT OF CAPITAL EXPENDITURES BY HEALTH CARE
3 FACILITIES WHICH REQUIRE A CERTIFICATE OF NEED REVIEW; TO AMEND
4 SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO EXEMPT THE
5 RELOCATION OF CERTAIN HEALTH CARE FACILITIES, SERVICES AND
6 REPLACEMENT EQUIPMENT FROM THE REQUIREMENT OF A CERTIFICATE OF
7 NEED REVIEW; TO BRING FORWARD SECTION 9 OF CHAPTER 482, LAWS OF
8 1982, AS AMENDED; TO AMEND SECTION 41-7-202, MISSISSIPPI CODE OF
9 1972, TO PROVIDE FOR A STAY OF PROCEEDINGS FOR CERTAIN CERTIFICATE
10 OF NEED DECISIONS ISSUED BY THE STATE DEPARTMENT OF HEALTH; AND
11 FOR RELATED PURPOSES.