

By: Representative Bourdeaux

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1017

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE ISSUANCE OF A CERTIFICATE OF NEED FOR ADDITIONAL
3 ADOLESCENT PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN
4 LAUDERDALE COUNTY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

38 (i) Open heart surgery services;

39 (ii) Cardiac catheterization services;

40 (iii) Comprehensive inpatient rehabilitation
41 services;

42 (iv) Licensed psychiatric services;

43 (v) Licensed chemical dependency services;

44 (vi) Radiation therapy services;

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

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

49 (ix) Home health services;

50 (x) Swing-bed services;

51 (xi) Ambulatory surgical services;

52 (xii) Magnetic resonance imaging services;

53 (xiii) Extracorporeal shock wave lithotripsy
54 services;

55 (xiv) Long-term care hospital services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

197 (h) Provided all criteria specified in the 1989 State
198 Health Plan are met and the proposed nursing home is within no
199 more than a fifteen (15) minute transportation time to an existing
200 hospital, the department may issue a certificate of need for the
201 construction of one (1) sixty-bed nursing home in Benton County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

475 more than thirty (30) patients in the nursing facility in any day
476 or for any patient in the nursing facility who is in a bed that is
477 not Medicaid-certified. This written agreement by the recipient
478 of the certificate of need shall be a condition of the issuance of
479 the certificate of need under this paragraph, and the agreement
480 shall be fully binding on any subsequent owner of the nursing
481 facility if the ownership of the nursing facility is transferred
482 at any time after the issuance of the certificate of need. After
483 this written agreement is executed, the Division of Medicaid and
484 the State Department of Health shall not certify more than thirty
485 (30) of the beds in the nursing facility for participation in the
486 Medicaid program. If the nursing facility violates the terms of
487 the written agreement by admitting or keeping in the nursing
488 facility on a regular or continuing basis more than thirty (30)
489 patients who are participating in the Medicaid program, the State
490 Department of Health shall revoke the license of the nursing
491 facility, at the time that the department determines, after a
492 hearing complying with due process, that the nursing facility has
493 violated the condition upon which the certificate of need was
494 issued, as provided in this paragraph and in the written
495 agreement. If the nursing facility or nursing facility beds
496 authorized by the certificate of need issued under this paragraph
497 are not constructed, expanded or converted and fully operational
498 within thirty-six (36) months after July 1, 1994, the State
499 Department of Health, after a hearing complying with due process,
500 shall revoke the certificate of need, if it is still outstanding,
501 and shall not issue a license for the nursing facility or nursing
502 facility beds at any time after the expiration of the
503 thirty-six-month period.

504 (x) The department may issue a certificate of need for
505 the new construction of a skilled nursing facility in Leake
506 County, provided that the recipient of the certificate of need
507 agrees in writing that the skilled nursing facility will not at
508 any time participate in the Medicaid program (Section 43-13-101 et

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

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

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

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

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

611 upon which the certificate of need was issued, as provided in this
612 paragraph and in the written agreement by the recipient of the
613 certificate of need. The total number of beds that may be
614 authorized under the authority of this paragraph (aa) shall not
615 exceed sixty (60) beds.

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

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

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

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

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

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

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

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

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

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

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

815 in the county hospital not to exceed sixty (60) beds.

816 (4) The State Department of Health may grant approval for
817 and issue certificates of need to any person proposing the new
818 construction of, addition to, conversion of beds of or expansion
819 of any health care facility defined in subparagraph (x)
820 (psychiatric residential treatment facility) of Section
821 41-7-173(h). The total number of beds which may be authorized by
822 such certificates of need shall not exceed three hundred
823 forty-nine (349) beds for the entire state.

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

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

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

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

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

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

913 (e) Of the total number of beds authorized under this
914 subsection (4) the department shall issue a certificate of need to
915 a privately owned, nonprofit psychiatric residential treatment
916 facility in Hinds County for an eight-bed expansion of the

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

921 (f) The department shall issue a certificate of need to
922 a 134-bed specialty hospital located on 29.44 commercial acres at
923 5900 Highway 39 North in Meridian (Lauderdale County),
924 Mississippi, for the addition, construction or expansion of
925 child/adolescent psychiatric residential beds in Lauderdale
926 County. For purposes of this paragraph, the provisions of Section
927 41-7-193(1) requiring substantial compliance with the projection
928 of need as reported in the current State Health Plan are waived.
929 The total number of child/adolescent psychiatric residential beds
930 that may be authorized under the authority of this paragraph shall
931 be seventy-five (75) beds. There shall be no prohibition or
932 restrictions on participation in the Medicaid program (Section
933 43-13-101 et seq.) for the person receiving the certificate of
934 need authorized under this paragraph or for the beds converted
935 pursuant to the authority of that certificate of need.

936 (5) (a) From and after July 1, 1993, the department shall
937 not issue a certificate of need to any person for the new
938 construction of any hospital, psychiatric hospital or chemical
939 dependency hospital that will contain any child/adolescent
940 psychiatric or child/adolescent chemical dependency beds, or for
941 the conversion of any other health care facility to a hospital,
942 psychiatric hospital or chemical dependency hospital that will
943 contain any child/adolescent psychiatric or child/adolescent
944 chemical dependency beds, or for the addition of any
945 child/adolescent psychiatric or child/adolescent chemical
946 dependency beds in any hospital, psychiatric hospital or chemical
947 dependency hospital, or for the conversion of any beds of another
948 category in any hospital, psychiatric hospital or chemical
949 dependency hospital to child/adolescent psychiatric or
950 child/adolescent chemical dependency beds, except as hereinafter

951 authorized:

952 (i) The department may issue certificates of need
953 to any person for any purpose described in this subsection,
954 provided that the hospital, psychiatric hospital or chemical
955 dependency hospital does not participate in the Medicaid program
956 (Section 43-13-101 et seq.) at the time of the application for the
957 certificate of need and the owner of the hospital, psychiatric
958 hospital or chemical dependency hospital agrees in writing that
959 the hospital, psychiatric hospital or chemical dependency hospital
960 will not at any time participate in the Medicaid program or admit
961 or keep any patients who are participating in the Medicaid program
962 in the hospital, psychiatric hospital or chemical dependency
963 hospital. This written agreement by the recipient of the
964 certificate of need shall be fully binding on any subsequent owner
965 of the hospital, psychiatric hospital or chemical dependency
966 hospital, if the ownership of the facility is transferred at any
967 time after the issuance of the certificate of need. Agreement
968 that the hospital, psychiatric hospital or chemical dependency
969 hospital will not participate in the Medicaid program shall be a
970 condition of the issuance of a certificate of need to any person
971 under this subparagraph (a)(i), and if such hospital, psychiatric
972 hospital or chemical dependency hospital at any time after the
973 issuance of the certificate of need, regardless of the ownership
974 of the facility, participates in the Medicaid program or admits or
975 keeps any patients in the hospital, psychiatric hospital or
976 chemical dependency hospital who are participating in the Medicaid
977 program, the State Department of Health shall revoke the
978 certificate of need, if it is still outstanding, and shall deny or
979 revoke the license of the hospital, psychiatric hospital or
980 chemical dependency hospital, at the time that the department
981 determines, after a hearing complying with due process, that the
982 hospital, psychiatric hospital or chemical dependency hospital has
983 failed to comply with any of the conditions upon which the
984 certificate of need was issued, as provided in this subparagraph

985 and in the written agreement by the recipient of the certificate
986 of need.

987 (ii) The department may issue a certificate of
988 need for the conversion of existing beds in a county hospital in
989 Choctaw County from acute care beds to child/adolescent chemical
990 dependency beds. For purposes of this paragraph, the provisions
991 of Section 41-7-193(1) requiring substantial compliance with the
992 projection of need as reported in the current State Health Plan is
993 waived. The total number of beds that may be authorized under
994 authority of this paragraph shall not exceed twenty (20) beds.
995 There shall be no prohibition or restrictions on participation in
996 the Medicaid program (Section 43-13-101 et seq.) for the hospital
997 receiving the certificate of need authorized under this
998 subparagraph (a)(ii) or for the beds converted pursuant to the
999 authority of that certificate of need.

1000 (iii) The department may issue a certificate or
1001 certificates of need for the construction or expansion of
1002 child/adolescent psychiatric beds or the conversion of other beds
1003 to child/adolescent psychiatric beds in Warren County. For
1004 purposes of this subparagraph, the provisions of Section
1005 41-7-193(1) requiring substantial compliance with the projection
1006 of need as reported in the current State Health Plan are waived.
1007 The total number of beds that may be authorized under the
1008 authority of this subparagraph shall not exceed twenty (20) beds.

1009 There shall be no prohibition or restrictions on participation in
1010 the Medicaid program (Section 43-13-101 et seq.) for the person
1011 receiving the certificate of need authorized under this
1012 subparagraph (a)(iii) or for the beds converted pursuant to the
1013 authority of that certificate of need.

1014 (iv) The department shall issue a certificate of
1015 need to the Region 7 Mental Health/Retardation Commission for the
1016 construction or expansion of child/adolescent psychiatric beds or
1017 the conversion of other beds to child/adolescent psychiatric beds
1018 in any of the counties served by the commission. For purposes of

1019 this subparagraph, the provisions of Section 41-7-193(1) requiring
1020 substantial compliance with the projection of need as reported in
1021 the current State Health Plan is waived. The total number of beds
1022 that may be authorized under the authority of this subparagraph
1023 shall not exceed twenty (20) beds. There shall be no prohibition
1024 or restrictions on participation in the Medicaid program (Section
1025 43-13-101 et seq.) for the person receiving the certificate of
1026 need authorized under this subparagraph (a)(iv) or for the beds
1027 converted pursuant to the authority of that certificate of need.

1028 (v) The department may issue a certificate of need
1029 to any county hospital located in Leflore County for the
1030 construction or expansion of adult psychiatric beds or the
1031 conversion of other beds to adult psychiatric beds, not to exceed
1032 twenty (20) beds, provided that the recipient of the certificate
1033 of need agrees in writing that the adult psychiatric beds will not
1034 at any time be certified for participation in the Medicaid program
1035 and that the hospital will not admit or keep any patients who are
1036 participating in the Medicaid program in any of such adult
1037 psychiatric beds. This written agreement by the recipient of the
1038 certificate of need shall be fully binding on any subsequent owner
1039 of the hospital if the ownership of the hospital is transferred at
1040 any time after the issuance of the certificate of need. Agreement
1041 that the adult psychiatric beds will not be certified for
1042 participation in the Medicaid program shall be a condition of the
1043 issuance of a certificate of need to any person under this
1044 subparagraph (a)(v), and if such hospital at any time after the
1045 issuance of the certificate of need, regardless of the ownership
1046 of the hospital, has any of such adult psychiatric beds certified
1047 for participation in the Medicaid program or admits or keeps any
1048 Medicaid patients in such adult psychiatric beds, the State
1049 Department of Health shall revoke the certificate of need, if it
1050 is still outstanding, and shall deny or revoke the license of the
1051 hospital at the time that the department determines, after a
1052 hearing complying with due process, that the hospital has failed

1053 to comply with any of the conditions upon which the certificate of
1054 need was issued, as provided in this subparagraph and in the
1055 written agreement by the recipient of the certificate of need.

1056 (b) From and after July 1, 1990, no hospital,
1057 psychiatric hospital or chemical dependency hospital shall be
1058 authorized to add any child/adolescent psychiatric or
1059 child/adolescent chemical dependency beds or convert any beds of
1060 another category to child/adolescent psychiatric or
1061 child/adolescent chemical dependency beds without a certificate of
1062 need under the authority of subsection (1)(c) of this section.

1063 (6) The department may issue a certificate of need to a
1064 county hospital in Winston County for the conversion of fifteen
1065 (15) acute care beds to geriatric psychiatric care beds.

1066 (7) The State Department of Health shall issue a certificate
1067 of need to a Mississippi corporation qualified to manage a
1068 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1069 Harrison County, not to exceed eighty (80) beds, including any
1070 necessary renovation or construction required for licensure and
1071 certification, provided that the recipient of the certificate of
1072 need agrees in writing that the long-term care hospital will not
1073 at any time participate in the Medicaid program (Section 43-13-101
1074 et seq.) or admit or keep any patients in the long-term care
1075 hospital who are participating in the Medicaid program. This
1076 written agreement by the recipient of the certificate of need
1077 shall be fully binding on any subsequent owner of the long-term
1078 care hospital, if the ownership of the facility is transferred at
1079 any time after the issuance of the certificate of need. Agreement
1080 that the long-term care hospital will not participate in the
1081 Medicaid program shall be a condition of the issuance of a
1082 certificate of need to any person under this subsection (7), and
1083 if such long-term care hospital at any time after the issuance of
1084 the certificate of need, regardless of the ownership of the
1085 facility, participates in the Medicaid program or admits or keeps
1086 any patients in the facility who are participating in the Medicaid

1087 program, the State Department of Health shall revoke the
1088 certificate of need, if it is still outstanding, and shall deny or
1089 revoke the license of the long-term care hospital, at the time
1090 that the department determines, after a hearing complying with due
1091 process, that the facility has failed to comply with any of the
1092 conditions upon which the certificate of need was issued, as
1093 provided in this paragraph and in the written agreement by the
1094 recipient of the certificate of need. For purposes of this
1095 paragraph, the provision of Section 41-7-193(1) requiring
1096 substantial compliance with the projection of need as reported in
1097 the current State Health Plan is hereby waived.

1098 (8) The State Department of Health may issue a certificate
1099 of need to any hospital in the state to utilize a portion of its
1100 beds for the "swing-bed" concept. Any such hospital must be in
1101 conformance with the federal regulations regarding such swing-bed
1102 concept at the time it submits its application for a certificate
1103 of need to the State Department of Health, except that such
1104 hospital may have more licensed beds or a higher average daily
1105 census (ADC) than the maximum number specified in federal
1106 regulations for participation in the swing-bed program. Any
1107 hospital meeting all federal requirements for participation in the
1108 swing-bed program which receives such certificate of need shall
1109 render services provided under the swing-bed concept to any
1110 patient eligible for Medicare (Title XVIII of the Social Security
1111 Act) who is certified by a physician to be in need of such
1112 services, and no such hospital shall permit any patient who is
1113 eligible for both Medicaid and Medicare or eligible only for
1114 Medicaid to stay in the swing beds of the hospital for more than
1115 thirty (30) days per admission unless the hospital receives prior
1116 approval for such patient from the Division of Medicaid, Office of
1117 the Governor. Any hospital having more licensed beds or a higher
1118 average daily census (ADC) than the maximum number specified in
1119 federal regulations for participation in the swing-bed program
1120 which receives such certificate of need shall develop a procedure

1121 to insure that before a patient is allowed to stay in the swing
1122 beds of the hospital, there are no vacant nursing home beds
1123 available for that patient located within a fifty-mile radius of
1124 the hospital. When any such hospital has a patient staying in the
1125 swing beds of the hospital and the hospital receives notice from a
1126 nursing home located within such radius that there is a vacant bed
1127 available for that patient, the hospital shall transfer the
1128 patient to the nursing home within a reasonable time after receipt
1129 of the notice. Any hospital which is subject to the requirements
1130 of the two (2) preceding sentences of this paragraph may be
1131 suspended from participation in the swing-bed program for a
1132 reasonable period of time by the State Department of Health if the
1133 department, after a hearing complying with due process, determines
1134 that the hospital has failed to comply with any of those
1135 requirements.

1136 (9) The Department of Health shall not grant approval for or
1137 issue a certificate of need to any person proposing the new
1138 construction of, addition to or expansion of a health care
1139 facility as defined in subparagraph (viii) of Section 41-7-173(h).

1140 (10) The Department of Health shall not grant approval for
1141 or issue a certificate of need to any person proposing the
1142 establishment of, or expansion of the currently approved territory
1143 of, or the contracting to establish a home office, subunit or
1144 branch office within the space operated as a health care facility
1145 as defined in Section 41-7-173(h)(i) through (viii) by a health
1146 care facility as defined in subparagraph (ix) of Section
1147 41-7-173(h).

1148 (11) Health care facilities owned and/or operated by the
1149 state or its agencies are exempt from the restraints in this
1150 section against issuance of a certificate of need if such addition
1151 or expansion consists of repairing or renovation necessary to
1152 comply with the state licensure law. This exception shall not
1153 apply to the new construction of any building by such state
1154 facility. This exception shall not apply to any health care

1155 facilities owned and/or operated by counties, municipalities,
1156 districts, unincorporated areas, other defined persons, or any
1157 combination thereof.

1158 (12) The new construction, renovation or expansion of or
1159 addition to any health care facility defined in subparagraph (ii)
1160 (psychiatric hospital), subparagraph (iv) (skilled nursing
1161 facility), subparagraph (vi) (intermediate care facility),
1162 subparagraph (viii) (intermediate care facility for the mentally
1163 retarded) and subparagraph (x) (psychiatric residential treatment
1164 facility) of Section 41-7-173(h) which is owned by the State of
1165 Mississippi and under the direction and control of the State
1166 Department of Mental Health, and the addition of new beds or the
1167 conversion of beds from one category to another in any such
1168 defined health care facility which is owned by the State of
1169 Mississippi and under the direction and control of the State
1170 Department of Mental Health, shall not require the issuance of a
1171 certificate of need under Section 41-7-171 et seq.,
1172 notwithstanding any provision in Section 41-7-171 et seq. to the
1173 contrary.

1174 (13) The new construction, renovation or expansion of or
1175 addition to any veterans homes or domiciliaries for eligible
1176 veterans of the State of Mississippi as authorized under Section
1177 35-1-19 shall not require the issuance of a certificate of need,
1178 notwithstanding any provision in Section 41-7-171 et seq. to the
1179 contrary.

1180 (14) The new construction of a nursing facility or nursing
1181 facility beds or the conversion of other beds to nursing facility
1182 beds shall not require the issuance of a certificate of need,
1183 notwithstanding any provision in Section 41-7-171 et seq. to the
1184 contrary, if the conditions of this subsection are met.

1185 (a) Before any construction or conversion may be
1186 undertaken without a certificate of need, the owner of the nursing
1187 facility, in the case of an existing facility, or the applicant to
1188 construct a nursing facility, in the case of new construction,

1189 first must file a written notice of intent and sign a written
1190 agreement with the State Department of Health that the entire
1191 nursing facility will not at any time participate in or have any
1192 beds certified for participation in the Medicaid program (Section
1193 43-13-101 et seq.), will not admit or keep any patients in the
1194 nursing facility who are participating in the Medicaid program,
1195 and will not submit any claim for Medicaid reimbursement for any
1196 patient in the facility. This written agreement by the owner or
1197 applicant shall be a condition of exercising the authority under
1198 this subsection without a certificate of need, and the agreement
1199 shall be fully binding on any subsequent owner of the nursing
1200 facility if the ownership of the facility is transferred at any
1201 time after the agreement is signed. After the written agreement
1202 is signed, the Division of Medicaid and the State Department of
1203 Health shall not certify any beds in the nursing facility for
1204 participation in the Medicaid program. If the nursing facility
1205 violates the terms of the written agreement by participating in
1206 the Medicaid program, having any beds certified for participation
1207 in the Medicaid program, admitting or keeping any patient in the
1208 facility who is participating in the Medicaid program, or
1209 submitting any claim for Medicaid reimbursement for any patient in
1210 the facility, the State Department of Health shall revoke the
1211 license of the nursing facility at the time that the department
1212 determines, after a hearing complying with due process, that the
1213 facility has violated the terms of the written agreement.

1214 (b) For the purposes of this subsection, participation
1215 in the Medicaid program by a nursing facility includes Medicaid
1216 reimbursement of coinsurance and deductibles for recipients who
1217 are qualified Medicare beneficiaries and/or those who are dually
1218 eligible. Any nursing facility exercising the authority under
1219 this subsection may not bill or submit a claim to the Division of
1220 Medicaid for services to qualified Medicare beneficiaries and/or
1221 those who are dually eligible.

1222 (c) The new construction of a nursing facility or

1223 nursing facility beds or the conversion of other beds to nursing
1224 facility beds described in this section must be either a part of a
1225 completely new continuing care retirement community, as described
1226 in the latest edition of the Mississippi State Health Plan, or an
1227 addition to existing personal care and independent living
1228 components, and so that the completed project will be a continuing
1229 care retirement community, containing (i) independent living
1230 accommodations, (ii) personal care beds, and (iii) the nursing
1231 home facility beds. The three (3) components must be located on a
1232 single site and be operated as one (1) inseparable facility. The
1233 nursing facility component must contain a minimum of thirty (30)
1234 beds. Any nursing facility beds authorized by this section will
1235 not be counted against the bed need set forth in the State Health
1236 Plan, as identified in Section 41-7-171, et seq.

1237 This subsection (14) shall stand repealed from and after July
1238 1, 2001.

1239 SECTION 2. This act shall take effect and be in force from
1240 and after July 1, 1999.