By: Senator(s) Tollison

To: Public Health and Welfare;

Appropriations

SENATE BILL NO. 2373

1	AN	ACT	TO	AMEND	SECTION	41-7-191.	MISSISSIPPI	CODE	OF	1972.

- 2 TO AUTHORIZE THE ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR
- 3 NURSING HOME BEDS IN YALOBUSHA COUNTY, MISSISSIPPI; AND FOR
- 4 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

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    authorized to add any beds or convert any beds to another category
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    of beds without a certificate of need under the authority of
    subsection (1)(c) of this section unless there is a projected need
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    for such beds in the planning district in which the facility is
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    located, as reported in the most current State Health Plan;
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                    Offering of the following health services if those
    services have not been provided on a regular basis by the proposed
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    provider of such services within the period of twelve (12) months
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    prior to the time such services would be offered:
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                    (i) Open heart surgery services;
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                    (ii) Cardiac catheterization services;
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                    (iii) Comprehensive inpatient rehabilitation
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    services;
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                          Licensed psychiatric services;
                    (iv)
                        Licensed chemical dependency services;
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                    (v)
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                    (vi) Radiation therapy services;
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                    (vii) Diagnostic imaging services of an invasive
    nature, i.e. invasive digital angiography;
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                    (viii) Nursing home care as defined in
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    subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
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                    (ix)
                         Home health services;
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                    (x)
                         Swing-bed services;
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                    (xi) Ambulatory surgical services;
                    (xii) Magnetic resonance imaging services;
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                    (xiii) Extracorporeal shock wave lithotripsy
    services;
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                    (xiv)
                           Long-term care hospital services;
                    (xv) Positron Emission Tomography (PET) Services;
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                    The relocation of one or more health services from
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    one physical facility or site to another physical facility or
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    site, unless such relocation, which does not involve a capital
    expenditure by or on behalf of a health care facility, is the
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    result of an order of a court of appropriate jurisdiction or a
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    result of pending litigation in such court, or by order of the
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    State Department of Health, or by order of any other agency or
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    legal entity of the state, the federal government, or any
    political subdivision of either, whose order is also approved by
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    the State Department of Health;
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67 (f) The acquisition or otherwise control of any major medical equipment for the provision of medical services; provided, 68 69 however, that the acquisition of any major medical equipment used only for research purposes shall be exempt from this paragraph; an 70 71 acquisition for less than fair market value must be reviewed, if the acquisition at fair market value would be subject to review; 72 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; The change of ownership of any health care facility 81 (h) 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 (g) has not been filed and if the Executive Director, Division of 84 85 Medicaid, Office of the Governor, has not certified in writing that there will be no increase in allowable costs to Medicaid from 86 87 revaluation of the assets or from increased interest and depreciation as a result of the proposed change of ownership; 88 89 Any activity described in paragraphs (a) through 90 (h) if undertaken by any person if that same activity would require certificate of need approval if undertaken by a health 91 92 care facility; Any capital expenditure or deferred capital 93 94 expenditure by or on behalf of a health care facility not covered by paragraphs (a) through (h); 95 The contracting of a health care facility as 96

operated as a health care facility through a formal arrangement with an existing health care facility as defined in subparagraph S. B. No. 2373
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defined in subparagraphs (i) through (viii) of Section 41-7-173(h)

to establish a home office, subunit, or branch office in the space

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101 (ix) of Section 41-7-173(h).
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- (2) The State Department of Health shall not grant approval 102 103 for or issue a certificate of need to any person proposing the new construction of, addition to, or expansion of any health care 104 105 facility defined in subparagraphs (iv) (skilled nursing facility) and (vi) (intermediate care facility) of Section 41-7-173(h) or 106 107 the conversion of vacant hospital beds to provide skilled or 108 intermediate nursing home care, except as hereinafter authorized: 109 The total number of nursing home beds as defined in 110 subparagraphs (iv) and (vi) of Section 41-7-173(h) which may be authorized by such certificates of need issued during the period 111 112 beginning on July 1, 1989, and ending on June 30, 2000, shall not 113 exceed one thousand five hundred twenty-five (1,525) beds. number of nursing home beds authorized under paragraphs (z), (cc), 114 (dd), (ee) and (ff) of this subsection (2) shall not be counted in 115 116 the limit on the total number of beds provided for in this 117 paragraph (a). (b) The department may issue a certificate of need to 118
- 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 currently have these distinct part components and which are 125 126 eligible for a certificate of need under this section are: Webster General Hospital in Webster County, Tippah County General 127 Hospital in Tippah County, Tishomingo County Hospital in 128 129 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 to be considered currently exist and no new construction is 132 required, the provision of Section 41-7-193(1) regarding 133 134 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 fifty-four (154) beds. 138 139 (c) The department may issue a certificate of need to 140 any person proposing the new construction of any health care facility defined in subparagraphs (iv) and (vi) of Section 141 142 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 exceed forty (40) beds, provided that the owner of the health care 145 146 facility on July 1, 1994, agrees in writing that no more than twenty (20) of the beds in the health care facility will be 147 certified for participation in the Medicaid program (Section 148 43-13-101 et seq.), and that no claim will be submitted for 149 150 Medicaid reimbursement for more than twenty (20) patients in the 151 health care facility in any day or for any patient in the health care facility who is in a bed that is not Medicaid-certified. 152 153 This written agreement by the owner of the health care facility on July 1, 1994, shall be fully binding on any subsequent owner of 154 155 the health care facility if the ownership of the health care 156 facility is transferred at any time after July 1, 1994. this written agreement is executed, the Division of Medicaid and 157 158 the State Department of Health shall not certify more than twenty (20) of the beds in the health care facility for participation in 159 160 the Medicaid program. If the health care facility violates the terms of the written agreement by admitting or keeping in the 161 162 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 the conversion of existing beds in a county district hospital or 170 171 in a personal care home in Holmes County to provide nursing home care in the county. Because the facilities to be considered 172 173 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 The total number of nursing home care beds that may be authorized by any certificate of need issued under this paragraph 179 180 shall not exceed sixty (60) beds.
- The department may issue a certificate of need for 181 (e) 182 the conversion of existing hospital beds to provide nursing home care in a county hospital in Jasper County that has its own 183 184 licensed nursing home located adjacent to the hospital. The total 185 number of nursing home care beds that may be authorized by any certificate of need issued under this paragraph shall not exceed 186 187 twenty (20) beds.

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- (f) The department may issue a certificate of need for the conversion of existing hospital beds in a hospital in Calhoun County to provide nursing home care in the county. The total number of nursing home care beds that may be authorized by any certificate of need issued under this paragraph shall not exceed 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.
- (h) Provided all criteria specified in the 1989 State
 Health Plan are met and the proposed nursing home is within no
 more than a fifteen-minute transportation time to an existing
 hospital, the department may issue a certificate of need for the
 construction of one (1) sixty-bed nursing home in Benton County.
- 202 (i) The department may issue a certificate of need to S. B. No. 2373 $99\$ CR246

- provide nursing home care in Neshoba County, not to exceed a total 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,
- $234\quad 1995, \ \text{shall} \ \text{be} \ \text{fully binding on any subsequent owner of any of the}$
- 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 and the State Department of Health shall not certify for 238 239 participation in the Medicaid program more than the number of beds authorized for participation in the Medicaid program under this 240 241 paragraph (k) for each respective facility. If any of the health care facilities violates the terms of the written agreement by 242 243 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 health care facility has violated the terms of the written 249 250 agreement as provided in this paragraph.
- (1) The department may issue certificates of need for the new construction of, addition to, or expansion of any skilled nursing facility or intermediate care facility in Jackson County, 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 The department may issue a certificate of need to 262 any intermediate care facility as defined in Section 41-7-173(h)(vi) in Marion County which has fewer than sixty (60) 263 264 beds, for making additions to or expansion or replacement of the 265 existing facility in order to increase the number of its beds to not more than sixty (60) beds. For the purposes of this 266 267 paragraph, the provision of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in 268 269 the current State Health Plan is waived. The total number of 270 nursing home beds that may be authorized by any certificate of

- need issued under this paragraph shall not exceed twenty-five (25) beds.
- (o) The department may issue a certificate of need for the conversion of nursing home beds, not to exceed thirteen (13) beds, in Winston County. The provision of Section 41-7-193(1) regarding substantial compliance with the projection of need as reported in the current State Health Plan is hereby waived as to
- such construction or expansion.

 (p) The department shall issue a certificate of need 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 after the issuance of the certificate of need, regardless of the 308 309 ownership of the facility, participates in the Medicaid program or 310 admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall 311 312 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 complying with due process, that the facility has failed to comply 315 316 with any of the conditions upon which the certificate of need was 317 issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of 318 beds that may be authorized under the authority of this paragraph 319 320 (r) shall not exceed sixty (60) beds. 321 The State Department of Health may issue a certificate of need to any hospital located in DeSoto County for 322 323 the new construction of a skilled nursing facility, not to exceed one hundred twenty (120) beds, in DeSoto County, provided that the 324 325 recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds in the skilled nursing facility 326 327 will be certified for participation in the Medicaid program 328 (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in 329 330 the facility in any day or for any patient in the facility who is in a bed that is not Medicaid-certified. This written agreement 331 by the recipient of the certificate of need shall be a condition 332 of the issuance of the certificate of need under this paragraph, 333 334 and the agreement shall be fully binding on any subsequent owner 335 of the skilled nursing facility if the ownership of the facility is transferred at any time after the issuance of the certificate 336

of need. After this written agreement is executed, the Division

of Medicaid and the State Department of Health shall not certify

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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 or keeping in the facility on a regular or continuing basis more 342 343 than thirty (30) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license 344 345 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 If the skilled nursing facility authorized by the 349 350 certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 351 352 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. (t) The State Department of Health may issue a 356 357 certificate of need for the construction of a nursing facility or the conversion of beds to nursing facility beds at a personal care 358 359 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 at the facility will be certified for participation in the 363 364 Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty 365 366 (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. written agreement by the recipient of the certificate of need 368 369 shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on 370 371 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, the Division of Medicaid and the State Department of Health shall 374 375 not certify more than thirty (30) of the beds in the facility for participation in the Medicaid program. If the facility violates 376 377 the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) 378 379 patients who are participating in the Medicaid program, the State 380 Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying 381 382 with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this 383 384 paragraph and in the written agreement. If the nursing facility or nursing facility beds authorized by the certificate of need 385 386 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 outstanding, and shall not issue a license for the nursing 390 391 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

certificate of need for conversion of a county hospital facility in Itawamba County to a nursing facility, not to exceed sixty (60) beds, including any necessary construction, renovation or expansion, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the facility in any day or for any patient in the facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on

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facility is transferred at any time after the issuance of the 408 409 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.

any subsequent owner of the facility if the ownership of the

certificate of need for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in either Hinds, Madison or Rankin Counties, not to exceed sixty (60) beds, provided that the recipient of the certificate of need agrees in writing that no more than thirty (30) of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the nursing facility in any day or for any patient in the nursing facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of

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442 shall be fully binding on any subsequent owner of the nursing 443 facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. 444 445 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 authorized by the certificate of need issued under this paragraph 458 459 are not constructed, expanded or converted and fully operational within thirty-six (36) months after July 1, 1994, the State 460 461 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 exceed sixty (60) beds, provided that the recipient of the 470 471 certificate of need agrees in writing that no more than thirty (30) of the beds at the nursing facility will be certified for 472 473 participation in the Medicaid program (Section 43-13-101 et seq.), 474 and that no claim will be submitted for Medicaid reimbursement for

the certificate of need under this paragraph, and the agreement

475 more than thirty (30) patients in the nursing facility in any day or for any patient in the nursing facility who is in a bed that is 476 477 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 shall be fully binding on any subsequent owner of the nursing 480 481 facility if the ownership of the nursing facility is transferred 482 at any time after the issuance of the certificate of need. this written agreement is executed, the Division of Medicaid and 483 484 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 hearing complying with due process, that the nursing facility has 492 493 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.

The department may issue a certificate of need for 504 505 the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need 506 507 agrees in writing that the skilled nursing facility will not at 508 any time participate in the Medicaid program (Section 43-13-101 et S. B. No. 2373 99\SS26\R246

509 seq.) or admit or keep any patients in the skilled nursing 510 facility who are participating in the Medicaid program. 511 written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled 512 513 nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. 514 515 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 the certificate of need, regardless of the ownership of the 519 520 facility, participates in the Medicaid program or admits or keeps 521 any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the 522 523 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 process, that the facility has failed to comply with any of the 526 527 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 facility beds that may be authorized by any certificate of need 533 534 issued under this paragraph (x) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of 535 536 need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the 537 State Department of Health, after a hearing complying with due 538 539 process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the skilled nursing 540 541 facility at any time after the expiration of the eighteen-month 542 period.

543 The department may issue a certificate of need in Jones County for making additions to or expansion or replacement 544 545 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 The department may issue certificates of need to (z) 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 facility on July 1, 1995. This written agreement by the recipient 565 566 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 facility if the ownership of the nursing facility is transferred 569 570 at any time after the issuance of the certificate of need. 571 this agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more beds in the nursing 572 573 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 program that is greater than the number of licensed beds in the 578 579 facility on July 1, 1995, the State Department of Health shall revoke the license of the nursing facility, at the time that the 580 581 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 The department may issue a certificate of need for (aa) 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 in the nursing facility who are participating in the Medicaid 594 595 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 Agreement that the nursing facility will not participate in 600 the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (aa), and 601 602 if such nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, 603 604 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 revoke the license of the nursing facility, at the time that the 608 609 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 authorized under the authority of this paragraph (aa) shall not 614 615 exceed sixty (60) beds. Provided that funds are specifically appropriated 616 (bb) 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. 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 The State Department of Health may issue a 627 certificate of need to a county-owned hospital in the Second Judicial District of Panola County for the conversion of not more 628 629 than seventy-two (72) hospital beds to nursing facility beds, provided that the recipient of the certificate of need agrees in 630 631 writing that none of the beds at the nursing facility will be certified for participation in the Medicaid program (Section 632 633 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 the issuance of the certificate of need under this paragraph, and 637 the agreement shall be fully binding on any subsequent owner of 638 the nursing facility if the ownership of the nursing facility is 639 transferred at any time after the issuance of the certificate of 640 641 After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify any 642 643 of the beds in the nursing facility for participation in the

If the nursing facility violates the terms of

Medicaid program.

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 with due process, that the nursing facility has violated the 650 651 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 period, unless the issuance is contested. If the certificate of 657 658 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 eighteen-month period. Provided, however, that if the issuance of 664 665 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 The department may issue a certificate of need for 670 the new construction, addition or conversion of skilled nursing facility beds in Madison County, provided that the recipient of 671 672 the certificate of need agrees in writing that the skilled nursing 673 facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the 674 675 skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the 676 677 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 of need. Agreement that the skilled nursing facility will not 680 681 participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this 682 683 paragraph (dd), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the 684 685 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 complying with due process, that the facility has failed to comply 691 with any of the conditions upon which the certificate of need was 692 693 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 need issued under this paragraph (dd) shall not exceed sixty (60) 696 697 If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the 698 699 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. 702 certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) 703 704 months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate 705 706 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 eighteen-month period. Provided, however, that if the issuance of 708 709 the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six 710 711 (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

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     nursing facility beds has not commenced within eighteen (18)
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     months after July 1, 1998, the State Department of Health, after a
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     hearing complying with due process, shall revoke the certificate
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     of need if it is still outstanding, and the department shall not
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     issue a license for the nursing facility at any time after the
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     eighteen-month period. Provided, however, that if the issuance of
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     the certificate of need is contested, the department shall require
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     substantial construction of the nursing facility beds within six
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     (6) months after final adjudication on the issuance of the
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     certificate of need.
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                    The department may issue a certificate of need for
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     the construction of a municipally-owned nursing facility within
     the Town of Belmont in Tishomingo County, not to exceed sixty (60)
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     beds, provided that the recipient of the certificate of need
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     agrees in writing that the skilled nursing facility will not at
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     any time participate in the Medicaid program (Section 43-13-101 et
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     seq.) or admit or keep any patients in the skilled nursing
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     facility who are participating in the Medicaid program.
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     written agreement by the recipient of the certificate of need
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     shall be fully binding on any subsequent owner of the skilled
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     nursing facility, if the ownership of the facility is transferred
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     at any time after the issuance of the certificate of need.
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     Agreement that the skilled nursing facility will not participate
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     in the Medicaid program shall be a condition of the issuance of a
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     certificate of need to any person under this paragraph (ff), and
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     if such skilled nursing facility at any time after the issuance of
     the certificate of need, regardless of the ownership of the
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     facility, participates in the Medicaid program or admits or keeps
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     any patients in the facility who are participating in the Medicaid
     program, the State Department of Health shall revoke the
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     certificate of need, if it is still outstanding, and shall deny or
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     revoke the license of the skilled nursing facility, at the time
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     that the department determines, after a hearing complying with due
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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 43-7-193(1) regarding substantial compliance of the projection of 784 785 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 application for the certificate of need and shall not issue the 789 790 certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is 791 792 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 process, shall revoke the certificate of need if it is still 795 796 outstanding, and the department shall not issue a license for the 797 nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need 798 799 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 (qq) The department may issue a certificate of need to
804 a county-owned hospital in Yalobusha County to increase its
805 licensed nursing home bed capacity from sixty-five (65) to one
806 hundred twenty (120) beds, not to exceed the addition of
807 fifty-five (55) beds.

(3) If the holder of the certificate of need that was issued before January 1, 1990, for the construction of a nursing home in Claiborne County has not substantially undertaken commencement of construction by completing site works and pouring foundations and the floor slab of a nursing home in Claiborne County before May 1, 1990, as determined by the department, then the department shall transfer such certificate of need to the Board of Supervisors of S. B. No. 2373

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815 Claiborne County upon the effective date of this subsection (3).
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- 816 If the certificate of need is transferred to the board of
- 817 supervisors, it shall be valid for a period of twelve (12) months
- 818 and shall authorize the construction of a sixty-bed nursing home
- 819 on county-owned property or the conversion of vacant hospital beds
- 820 in the county hospital not to exceed sixty (60) beds.
- 821 (4) The State Department of Health may grant approval for
- 822 and issue certificates of need to any person proposing the new
- 823 construction of, addition to, conversion of beds of or expansion
- 824 of any health care facility defined in subparagraph (x)
- 825 (psychiatric residential treatment facility) of Section
- 826 41-7-173(h). The total number of beds which may be authorized by
- 827 such certificates of need shall not exceed two hundred
- 828 seventy-four (274) beds for the entire state.
- 829 (a) Of the total number of beds authorized under this
- 830 subsection, the department shall issue a certificate of need to a
- 831 privately owned psychiatric residential treatment facility in
- 832 Simpson County for the conversion of sixteen (16) intermediate
- 833 care facility for the mentally retarded (ICF-MR) beds to
- 834 psychiatric residential treatment facility beds, provided that
- 835 facility agrees in writing that the facility shall give priority
- 836 for the use of those sixteen (16) beds to Mississippi residents
- 837 who are presently being treated in out-of-state facilities.
- 838 (b) Of the total number of beds authorized under this
- 839 subsection, the department may issue a certificate or certificates
- 840 of need for the construction or expansion of psychiatric
- 841 residential treatment facility beds or the conversion of other
- 842 beds to psychiatric residential treatment facility beds in Warren
- 843 County, not to exceed sixty (60) psychiatric residential treatment
- 844 facility beds, provided that the facility agrees in writing that
- 845 no more than thirty (30) of the beds at the psychiatric
- 846 residential treatment facility will be certified for participation
- 847 in the Medicaid program (Section 43-13-101 et seq.) for the use of
- 848 any patients other than those who are participating only in the

849 Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement 850 851 for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the 852 853 psychiatric residential treatment facility who is in a bed that is 854 not Medicaid-certified. This written agreement by the recipient 855 of the certificate of need shall be a condition of the issuance of 856 the certificate of need under this paragraph, and the agreement 857 shall be fully binding on any subsequent owner of the psychiatric 858 residential treatment facility if the ownership of the facility is 859 transferred at any time after the issuance of the certificate of 860 need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more 861 than thirty (30) of the beds in the psychiatric residential 862 863 treatment facility for participation in the Medicaid program for 864 the use of any patients other than those who are participating 865 only in the Medicaid program of another state. If the psychiatric residential treatment facility violates the terms of the written 866 867 agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are 868 869 participating in the Mississippi Medicaid program, the State 870 Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying 871 872 with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this 873 874 paragraph and in the written agreement.

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in

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883 out-of-state facilities, and (ii) that no more than fifteen (15) 884 of the beds at the psychiatric residential treatment facility will 885 be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for 886 887 Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any 888 patient in the psychiatric residential treatment facility who is 889 890 in a bed that is not Medicaid-certified. This written agreement 891 by the recipient of the certificate of need shall be a condition 892 of the issuance of the certificate of need under this paragraph, 893 and the agreement shall be fully binding on any subsequent owner 894 of the psychiatric residential treatment facility if the ownership 895 of the facility is transferred at any time after the issuance of 896 the certificate of need. After this written agreement is 897 executed, the Division of Medicaid and the State Department of 898 Health shall not certify more than fifteen (15) of the beds in the 899 psychiatric residential treatment facility for participation in 900 the Medicaid program. If the psychiatric residential treatment 901 facility violates the terms of the written agreement by admitting 902 or keeping in the facility on a regular or continuing basis more 903 than fifteen (15) patients who are participating in the Medicaid 904 program, the State Department of Health shall revoke the license 905 of the facility, at the time that the department determines, after 906 a hearing complying with due process, that the facility has 907 violated the condition upon which the certificate of need was 908 issued, as provided in this paragraph and in the written 909 agreement. Of the total number of beds authorized under this 910

subsection, the department may issue a certificate or certificates
of need for the construction or expansion of psychiatric
residential treatment facility beds or the conversion of other
beds to psychiatric treatment facility beds, not to exceed thirty
(30) psychiatric residential treatment facility beds, in either
Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
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917 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah Counties.

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

919 subsection (4) the department shall issue a certificate of need to

920 a privately owned, nonprofit psychiatric residential treatment

921 facility in Hinds County for an eight-bed expansion of the

922 facility, provided that the facility agrees in writing that the

facility shall give priority for the use of those eight (8) beds

to Mississippi residents who are presently being treated in

925 out-of-state facilities.

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926 (5) (a) From and after July 1, 1993, the department shall

927 not issue a certificate of need to any person for the new

construction of any hospital, psychiatric hospital or chemical

929 dependency hospital that will contain any child/adolescent

930 psychiatric or child/adolescent chemical dependency beds, or for

the conversion of any other health care facility to a hospital,

932 psychiatric hospital or chemical dependency hospital that will

933 contain any child/adolescent psychiatric or child/adolescent

934 chemical dependency beds, or for the addition of any

935 child/adolescent psychiatric or child/adolescent chemical

936 dependency beds in any hospital, psychiatric hospital or chemical

dependency hospital, or for the conversion of any beds of another

938 category in any hospital, psychiatric hospital or chemical

939 dependency hospital to child/adolescent psychiatric or

940 child/adolescent chemical dependency beds, except as hereinafter

941 authorized:

942 (i) The department may issue certificates of need

943 to any person for any purpose described in this subsection,

944 provided that the hospital, psychiatric hospital or chemical

945 dependency hospital does not participate in the Medicaid program

946 (Section 43-13-101 et seq.) at the time of the application for the

947 certificate of need and the owner of the hospital, psychiatric

948 hospital or chemical dependency hospital agrees in writing that

949 the hospital, psychiatric hospital or chemical dependency hospital

950 will not at any time participate in the Medicaid program or admit

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

977 (ii) The department may issue a certificate of
978 need for the conversion of existing beds in a county hospital in
979 Choctaw County from acute care beds to child/adolescent chemical
980 dependency beds. For purposes of this paragraph, the provisions
981 of Section 41-7-193(1) requiring substantial compliance with the
982 projection of need as reported in the current State Health Plan is
983 waived. The total number of beds that may be authorized under
984 authority of this paragraph shall not exceed twenty (20) beds.
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985 There shall be no prohibition or restrictions on participation in 986 the Medicaid program (Section 43-13-101 et seq.) for the hospital 987 receiving the certificate of need authorized under this 988 subparagraph (a)(ii) or for the beds converted pursuant to the 989 authority of that certificate of need. 990 (iii) The department may issue a certificate or 991 certificates of need for the construction or expansion of child/adolescent psychiatric beds or the conversion of other beds 992 993 to child/adolescent psychiatric beds in Warren County. For 994 purposes of this subparagraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection 995 996 of need as reported in the current State Health Plan are waived. 997 The total number of beds that may be authorized under the 998 authority of this subparagraph shall not exceed twenty (20) beds. 999 There shall be no prohibition or restrictions on participation in 1000 the Medicaid program (Section 43-13-101 et seq.) for the person 1001 receiving the certificate of need authorized under this 1002 subparagraph (a)(iii) or for the beds converted pursuant to the 1003 authority of that certificate of need. (iv) The department shall issue a certificate of 1004 1005 need to the Region 7 Mental Health/Retardation Commission for the construction or expansion of child/adolescent psychiatric beds or 1006 1007 the conversion of other beds to child/adolescent psychiatric beds 1008 in any of the counties served by the commission. For purposes of this subparagraph, the provisions of Section 41-7-193(1) requiring 1009 1010 substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of beds 1011 1012 that may be authorized under the authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition 1013 1014 or restrictions on participation in the Medicaid program (Section 1015 43-13-101 et seq.) for the person receiving the certificate of

need authorized under this subparagraph (a)(iv) or for the beds

converted pursuant to the authority of that certificate of need.

(v) The department may issue a certificate of need

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1019 to any county hospital located in Leflore County for the 1020 construction or expansion of adult psychiatric beds or the 1021 conversion of other beds to adult psychiatric beds, not to exceed 1022 twenty (20) beds, provided that the recipient of the certificate 1023 of need agrees in writing that the adult psychiatric beds will not 1024 at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are 1025 participating in the Medicaid program in any of such adult 1026 1027 psychiatric beds. This written agreement by the recipient of the 1028 certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at 1029 1030 any time after the issuance of the certificate of need. Agreement 1031 that the adult psychiatric beds will not be certified for 1032 participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this 1033 1034 subparagraph (a)(v), and if such hospital at any time after the 1035 issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified 1036 1037 for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, the State 1038 1039 Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the 1040 1041 hospital at the time that the department determines, after a 1042 hearing complying with due process, that the hospital has failed to comply with any of the conditions upon which the certificate of 1043 1044 need was issued, as provided in this subparagraph and in the 1045 written agreement by the recipient of the certificate of need. From and after July 1, 1990, no hospital, 1046 psychiatric hospital or chemical dependency hospital shall be 1047 1048 authorized to add any child/adolescent psychiatric or 1049 child/adolescent chemical dependency beds or convert any beds of another category to child/adolescent psychiatric or 1050 1051 child/adolescent chemical dependency beds without a certificate of 1052 need under the authority of subsection (1)(c) of this section.

1053 The department may issue a certificate of need to a county hospital in Winston County for the conversion of fifteen 1054 1055 (15) acute care beds to geriatric psychiatric care beds. The State Department of Health shall issue a certificate 1056 1057 of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in 1058 Harrison County, not to exceed eighty (80) beds, including any 1059 necessary renovation or construction required for licensure and 1060 1061 certification, provided that the recipient of the certificate of 1062 need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 1063 1064 et seq.) or admit or keep any patients in the long-term care 1065 hospital who are participating in the Medicaid program. written agreement by the recipient of the certificate of need 1066 1067 shall be fully binding on any subsequent owner of the long-term 1068 care hospital, if the ownership of the facility is transferred at 1069 any time after the issuance of the certificate of need. that the long-term care hospital will not participate in the 1070 1071 Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (7), and 1072 1073 if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the 1074 1075 facility, participates in the Medicaid program or admits or keeps 1076 any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the 1077 1078 certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term care hospital, at the time 1079 that the department determines, after a hearing complying with due 1080 process, that the facility has failed to comply with any of the 1081 1082 conditions upon which the certificate of need was issued, as 1083 provided in this paragraph and in the written agreement by the 1084 recipient of the certificate of need. For purposes of this 1085 paragraph, the provision of Section 41-7-193(1) requiring

substantial compliance with the projection of need as reported in

1087 the current State Health Plan is hereby waived.

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

- 1121 suspended from participation in the swing-bed program for a
- 1122 reasonable period of time by the State Department of Health if the
- 1123 department, after a hearing complying with due process, determines
- 1124 that the hospital has failed to comply with any of those
- requirements. 1125
- The Department of Health shall not grant approval for or 1126
- issue a certificate of need to any person proposing the new 1127
- construction of, addition to or expansion of a health care 1128
- 1129 facility as defined in subparagraph (viii) of Section 41-7-173(h).
- 1130 (10) The Department of Health shall not grant approval for
- 1131 or issue a certificate of need to any person proposing the
- 1132 establishment of, or expansion of the currently approved territory
- of, or the contracting to establish a home office, subunit or 1133
- 1134 branch office within the space operated as a health care facility
- as defined in Section 41-7-173(h)(i) through (viii) by a health 1135
- 1136 care facility as defined in subparagraph (ix) of Section
- 1137 41-7-173(h).
- (11) Health care facilities owned and/or operated by the 1138
- 1139 state or its agencies are exempt from the restraints in this
- 1140 section against issuance of a certificate of need if such addition
- or expansion consists of repairing or renovation necessary to 1141
- comply with the state licensure law. This exception shall not 1142
- 1143 apply to the new construction of any building by such state
- 1144 facility. This exception shall not apply to any health care
- 1145 facilities owned and/or operated by counties, municipalities,
- 1146 districts, unincorporated areas, other defined persons, or any
- 1147 combination thereof.
- (12) The new construction, renovation or expansion of or 1148
- addition to any health care facility defined in subparagraph (ii) 1149
- (psychiatric hospital), subparagraph (iv) (skilled nursing 1150
- 1151 facility), subparagraph (vi) (intermediate care facility),
- 1152 subparagraph (viii) (intermediate care facility for the mentally
- 1153 retarded) and subparagraph (x) (psychiatric residential treatment
- 1154 facility) of Section 41-7-173(h) which is owned by the State of

1155 Mississippi and under the direction and control of the State

1156 Department of Mental Health, and the addition of new beds or the

- 1157 conversion of beds from one category to another in any such
- 1158 defined health care facility which is owned by the State of
- 1159 Mississippi and under the direction and control of the State
- 1160 Department of Mental Health, shall not require the issuance of a
- 1161 certificate of need under Section 41-7-171 et seq.,
- 1162 notwithstanding any provision in Section 41-7-171 et seq. to the
- 1163 contrary.
- 1164 (13) The new construction, renovation or expansion of or
- 1165 addition to any veterans homes or domiciliaries for eligible
- 1166 veterans of the State of Mississippi as authorized under Section
- 1167 35-1-19 shall not require the issuance of a certificate of need,
- 1168 notwithstanding any provision in Section 41-7-171 et seq. to the
- 1169 contrary.
- 1170 (14) The new construction of a nursing facility or nursing
- 1171 facility beds or the conversion of other beds to nursing facility
- 1172 beds shall not require the issuance of a certificate of need,
- 1173 notwithstanding any provision in Section 41-7-171 et seq. to the
- 1174 contrary, if the conditions of this subsection are met.
- 1175 (a) Before any construction or conversion may be
- 1176 undertaken without a certificate of need, the owner of the nursing
- 1177 facility, in the case of an existing facility, or the applicant to
- 1178 construct a nursing facility, in the case of new construction,
- 1179 first must file a written notice of intent and sign a written
- 1180 agreement with the State Department of Health that the entire
- 1181 nursing facility will not at any time participate in or have any
- 1182 beds certified for participation in the Medicaid program (Section
- 1183 43-13-101 et seq.), will not admit or keep any patients in the
- 1184 nursing facility who are participating in the Medicaid program,
- 1185 and will not submit any claim for Medicaid reimbursement for any
- 1186 patient in the facility. This written agreement by the owner or
- 1187 applicant shall be a condition of exercising the authority under
- 1188 this subsection without a certificate of need, and the agreement

1189 shall be fully binding on any subsequent owner of the nursing 1190 facility if the ownership of the facility is transferred at any 1191 time after the agreement is signed. After the written agreement is signed, the Division of Medicaid and the State Department of 1192 1193 Health shall not certify any beds in the nursing facility for 1194 participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by participating in 1195 the Medicaid program, having any beds certified for participation 1196 in the Medicaid program, admitting or keeping any patient in the 1197 1198 facility who is participating in the Medicaid program, or submitting any claim for Medicaid reimbursement for any patient in 1199 1200 the facility, the State Department of Health shall revoke the 1201 license of the nursing facility at the time that the department 1202 determines, after a hearing complying with due process, that the facility has violated the terms of the written agreement. 1203

- (b) For the purposes of this subsection, participation in the Medicaid program by a nursing facility includes Medicaid reimbursement of coinsurance and deductibles for recipients who are qualified Medicare beneficiaries and/or those who are dually eligible. Any nursing facility exercising the authority under this subsection may not bill or submit a claim to the Division of Medicaid for services to qualified Medicare beneficiaries and/or those who are dually eligible.
- 1212 The new construction of a nursing facility or 1213 nursing facility beds or the conversion of other beds to nursing 1214 facility beds described in this section must be either a part of a 1215 completely new continuing care retirement community, as described 1216 in the latest edition of the Mississippi State Health Plan, or an addition to existing personal care and independent living 1217 1218 components, and so that the completed project will be a continuing 1219 care retirement community, containing (i) independent living 1220 accommodations, (ii) personal care beds, and (iii) the nursing 1221 home facility beds. The three (3) components must be located on a 1222 single site and be operated as one (1) inseparable facility.

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- 1223 nursing facility component must contain a minimum of thirty (30)
- 1224 beds. Any nursing facility beds authorized by this section will
- 1225 not be counted against the bed need set forth in the State Health
- 1226 Plan, as identified in Section 41-7-171, et seq.
- 1227 This subsection (14) shall stand repealed from and after July
- 1228 1, 2001.
- 1229 SECTION 2. This act shall take effect and be in force from
- 1230 and after its passage.