

By: Representative Stribling

To: Public Health and  
Welfare

## HOUSE BILL NO. 1270

1 AN ACT TO AMEND SECTIONS 43-11-1, 43-11-7, 43-11-9, 43-11-13,  
2 41-49-3, 43-7-55 AND 73-17-5, MISSISSIPPI CODE OF 1972, TO CHANGE  
3 REFERENCES TO "PERSONAL CARE" AND "PERSONAL CARE HOMES" TO  
4 "ASSISTED LIVING" AND "ASSISTED LIVING FACILITIES"; AND FOR  
5 RELATED PURPOSES.

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

7 SECTION 1. Section 43-11-1, Mississippi Code of 1972, is  
8 amended as follows:

9 43-11-1. When used in this chapter, the following words  
10 shall have the following meaning:

11 (a) "Institutions for the aged or infirm" means a place  
12 either governmental or private which provides group living  
13 arrangements for four (4) or more persons who are unrelated to the  
14 operator and who are being provided food, shelter and assisted  
15 living whether any such place be organized or operated for profit  
16 or not. The term "institution for aged or infirm" includes  
17 nursing homes, pediatric skilled nursing facilities, psychiatric  
18 residential treatment facilities, convalescent homes and homes for  
19 the aged, provided that these institutions fall within the scope  
20 of the definitions set forth above. The term "institution for the  
21 aged or infirm" does not include hospitals, clinics or mental  
22 institutions devoted primarily to providing medical service.

23 (b) "Person" means any individual, firm, partnership,  
24 corporation, company, association or joint stock association, or  
25 any licensee herein or the legal successor thereof.

26 (c) "Assisted living" means assistance rendered by  
27 personnel of the home to aged or infirm residents in performing

28 one or more of the activities of daily living, which includes, but  
29 is not limited to the bathing, walking, excretory functions,  
30 feeding, personal grooming and dressing of such residents.

31 (d) "Psychiatric residential treatment facility" means  
32 any nonhospital establishment with permanent facilities which  
33 provides a twenty-four-hour program of care by qualified  
34 therapists including, but not limited to, duly licensed mental  
35 health professionals, psychiatrists, psychologists,  
36 psychotherapists and licensed certified social workers, for  
37 emotionally disturbed children and adolescents referred to such  
38 facility by a court, local school district or by the Department of  
39 Human Services, who are not in an acute phase of illness requiring  
40 the services of a psychiatric hospital, and are in need of such  
41 restorative treatment services. For purposes of this paragraph,  
42 the term "emotionally disturbed" means a condition exhibiting one  
43 or more of the following characteristics over a long period of  
44 time and to a marked degree, which adversely affects educational  
45 performance:

46 (i) An inability to learn which cannot be  
47 explained by intellectual, sensory or health factors;

48 (ii) An inability to build or maintain  
49 satisfactory relationships with peers and teachers;

50 (iii) Inappropriate types of behavior or feelings  
51 under normal circumstances;

52 (iv) A general pervasive mood of unhappiness or  
53 depression; or

54 (v) A tendency to develop physical symptoms or  
55 fears associated with personal or school problems. An  
56 establishment furnishing primarily domiciliary care is not within  
57 this definition.

58 (e) "Pediatric skilled nursing facility" means an  
59 institution or a distinct part of an institution that is primarily  
60 engaged in providing to inpatients skilled nursing care and  
61 related services for persons under twenty-one (21) years of age  
62 who require medical or nursing care or rehabilitation services for  
63 the rehabilitation of injured, disabled or sick persons.

64 (f) "Licensing agency" means the State Department of

65 Health.

66 SECTION 2. Section 43-11-7, Mississippi Code of 1972, is  
67 amended as follows:

68 43-11-7. An application for a license shall be made to the  
69 licensing agency upon forms provided by it and shall contain such  
70 information as the licensing agency reasonably requires, which may  
71 include affirmative evidence of ability to comply with such  
72 reasonable standards, rules and regulations as are lawfully  
73 prescribed hereunder. Each application for a license for an  
74 institution for the aged or infirm, except for assisted living  
75 facilities, shall be accompanied by a license fee of Twenty  
76 Dollars (\$20.00) for each bed in the institution, with a minimum  
77 fee per institution of Two Hundred Dollars (\$200.00), which shall  
78 be paid to the licensing agency. Each application for a license  
79 for an assisted living facility shall be accompanied by a license  
80 fee of Fifteen Dollars (\$15.00) for each bed in the institution,  
81 with a minimum fee per institution of One Hundred Dollars  
82 (\$100.00), which shall be paid to the licensing agency.

83 No governmental entity or agency shall be required to pay the  
84 fee or fees set forth in this section.

85 SECTION 3. Section 43-11-9, Mississippi Code of 1972, is  
86 amended as follows:

87 43-11-9. (1) Upon receipt of an application for license and  
88 the license fee, the licensing agency shall issue a license if the  
89 applicant and the institutional facilities meet the requirements  
90 established under this chapter and the requirements of Section  
91 41-7-173 et seq., where determined by the licensing agency to be  
92 applicable. A license, unless suspended or revoked, shall be  
93 renewable annually upon payment by (a) the licensee of an  
94 institution for the aged or infirm, except for assisted living  
95 facilities, of a renewal fee of Twenty Dollars (\$20.00) for each  
96 bed in the institution, with a minimum fee per institution of Two  
97 Hundred Dollars (\$200.00), or (b) the licensee of an assisted

98 living facility of a renewal fee of Fifteen Dollars (\$15.00) for  
99 each bed in the institution, with a minimum fee per institution of  
100 One Hundred Dollars (\$100.00), which shall be paid to the  
101 licensing agency, and upon filing by the licensee and approval by  
102 the licensing agency of an annual report upon such uniform dates  
103 and containing such information in such form as the licensing  
104 agency prescribes by regulation. Each license shall be issued  
105 only for the premises and person or persons or other legal entity  
106 or entities named in the application and shall not be transferable  
107 or assignable except with the written approval of the licensing  
108 agency. Licenses shall be posted in a conspicuous place on the  
109 licensed premises.

110 (2) A fee known as a "user fee" shall be applicable and  
111 shall be paid to the licensing agency as set out in subsection (1)  
112 hereof. This user fee shall be assessed for the purpose of the  
113 required reviewing and inspections of the proposal of any  
114 institution in which there are additions, renovations,  
115 modernizations, expansion, alterations, conversions, modifications  
116 or replacement of the entire facility involved in such proposal.  
117 This fee includes the reviewing of architectural plans in all  
118 steps required. There shall be a minimum user fee of Fifty  
119 Dollars (\$50.00) and a maximum user fee of Five Thousand Dollars  
120 (\$5,000.00).

121 (3) No governmental entity or agency shall be required to  
122 pay the fee or fees set forth in this section.

123 SECTION 4. Section 43-11-13, Mississippi Code of 1972, is  
124 amended as follows:

125 43-11-13. (1) The licensing agency shall adopt, amend,  
126 promulgate and enforce such rules, regulations and standards,  
127 including classifications, with respect to all institutions for  
128 the aged or infirm to be licensed hereunder as may be designed to  
129 further the accomplishment of the purpose of this chapter in  
130 promoting adequate care of individuals in such institutions in the

131 interest of public health, safety and welfare. Such rules,  
132 regulations and standards shall be adopted and promulgated by the  
133 licensing agency and shall be recorded and indexed in a book to be  
134 maintained by the licensing agency in its main office in the State  
135 of Mississippi, entitled "Rules, Regulations and Minimum Standards  
136 for Institutions for the Aged or Infirm" and said book shall be  
137 open and available to all institutions for the aged or infirm and  
138 the public generally at all reasonable times. Upon the adoption  
139 of such rules, regulations and standards, the licensing agency  
140 shall mail copies thereof to all such institutions in the state  
141 which have filed with said agency their names and addresses for  
142 this purpose, but the failure to mail the same or the failure of  
143 the institutions to receive the same shall in nowise affect the  
144 validity thereof. Said rules, regulations and standards may be  
145 amended by the licensing agency from time to time as necessary to  
146 promote the health, safety and welfare of persons living in said  
147 institutions.

148 (2) The licensee shall keep posted in a conspicuous place on  
149 the licensed premises all current rules, regulations and minimum  
150 standards applicable to fire protection measures as adopted by the  
151 licensing agency. The licensee shall furnish to the licensing  
152 agency at least once each six (6) months a certificate of approval  
153 and inspection by state or local fire authorities. Failure to  
154 comply with state laws and/or municipal ordinances and current  
155 rules, regulations and minimum standards as adopted by the  
156 licensing agency, relative to fire prevention measures, shall be  
157 prima facie evidence for revocation of license.

158 (3) The State Board of Health shall promulgate rules and  
159 regulations restricting the storage, quantity and classes of drugs  
160 allowed in assisted living facilities. Residents requiring  
161 administration of Schedule II Narcotics as defined in the Uniform  
162 Controlled Substances Law may be admitted to an assisted living  
163 facility. Schedule drugs may only be allowed in an assisted

164 living facility if they are administered or stored utilizing  
165 proper procedures under the direct supervision of a licensed  
166 physician or nurse.

167 SECTION 5. Section 41-49-3, Mississippi Code of 1972, is  
168 amended as follows:

169 41-49-3. The term "hotel" shall mean and include any hotel,  
170 inn, motel, tourist court, apartment house, rooming house, or  
171 other place where sleeping accommodations are furnished or offered  
172 for pay if four (4) or more rooms are available therein for  
173 transient guests, excluding nursing homes or institutions for the  
174 aged or infirm as defined in Section 43-11-1, and assisted living  
175 facilities as defined in Section 43-11-1.

176 SECTION 6. Section 43-7-55, Mississippi Code of 1972, is  
177 amended as follows:

178 43-7-55. For the purposes of Section 43-7-51 through  
179 43-7-79, the following words shall have the definitions ascribed  
180 herein:

181 (a) "Administrator" means any person charged with the  
182 general administration or supervision of a long-term care facility  
183 without regard to whether such person has an ownership interest in  
184 such facility or to whether such person's functions and duties are  
185 shared with one or more other persons;

186 (b) "Community ombudsman" means a person selected by an  
187 area agency on aging who is then trained and certified as such by  
188 the council pursuant to Section 43-7-59;

189 (c) "Council" means the Mississippi Council on Aging;

190 (d) "Long-term care facility" means any skilled nursing  
191 facility, extended care home, intermediate care facility, assisted  
192 living facility or boarding home which is subject to regulation or  
193 licensure by the State Department of Health;

194 (e) "Resident" means any resident, prospective  
195 resident, prior resident or deceased resident of any long-term  
196 care facility;

197 (f) "Sponsor" means an adult relative, friend or  
198 guardian who has a responsibility in the resident's welfare;

199 (g) "State Ombudsman" means the State Long-term Care  
200 Facilities Ombudsman;

201 (h) "Ombudsman" means the State Ombudsman or any  
202 community ombudsman;

203 (i) "Area agency on aging" means those grantees of the  
204 council which are charged with the local administration of the  
205 Older Americans Act.

206 SECTION 7. Section 73-17-5, Mississippi Code of 1972, is  
207 amended as follows:

208 73-17-5. As used in this chapter:

209 (a) The term "nursing home administrator" or  
210 "administrator" means any individual who is charged with the  
211 general administration of a nursing home, whether or not such  
212 individual has an ownership interest in such home and whether or  
213 not the functions and duties are shared with one or more  
214 individuals. "General administration of a nursing home" shall  
215 mean the duties of administrative performance and the making of  
216 day-to-day decisions involved in the planning, organizing,  
217 directing and/or controlling of a nursing home.

218 (b) The term "nursing home" means a place, either  
219 governmental or private, profit or nonprofit, which provides group  
220 living arrangements for four (4) or more persons who are unrelated  
221 to the operator and who are being provided food, shelter and  
222 assisted living, and which employs at least one (1) registered  
223 nurse or licensed practical nurse. The term "nursing home" does  
224 not include hospitals, clinics, assisted living facilities and  
225 other institutions devoted primarily to providing medical  
226 services.

227 (c) "Board" means the Mississippi State Board of  
228 Nursing Home Administrators.

229 (d) "Person" means an individual or natural person, and

230 does not include a firm, corporation, association, partnership,  
231 institution, public body, joint stock association or other group  
232 of individuals.

233 SECTION 8. This act shall take effect and be in force from  
234 and after July 1, 1999.