

By: Senator(s) Burton

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 2117

1 AN ACT TO AMEND SECTION 43-11-1, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE TERMS "ASSISTED LIVING FACILITY," "ADULT DAY SERVICES
3 FACILITY" AND "RESIDENTIAL FACILITY FOR THE AGED" FOR PURPOSES OF
4 INSTITUTIONAL LICENSURE BY THE STATE DEPARTMENT OF HEALTH; TO
5 AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO DIRECT THE
6 STATE BOARD OF HEALTH TO PROMULGATE RULES, REGULATIONS AND
7 STANDARDS REGARDING THE OPERATION OF ASSISTED LIVING FACILITIES
8 WHICH INCORPORATE THE MOST CURRENT "GUIDELINES TO STATES ON
9 SETTING MINIMUM STANDARDS FOR PROVIDERS OF ASSISTED LIVING"
10 DEVELOPED AND ISSUED BY THE ASSISTED LIVING QUALITY COALITION, AND
11 TO PROMULGATE REGULATIONS REGARDING THE OPERATION OF ADULT DAY
12 SERVICES FACILITIES WHICH INCORPORATE THE MOST CURRENT RANGES AND
13 LEVELS OF CARE DEVELOPED BY THE NATIONAL ADULT DAY SERVICES
14 ASSOCIATION; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
15 LEGISLATURE OF THE STATE OF MISSISSIPPI:
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17 SECTION 1. Section 43-11-1, Mississippi Code of 1972, is
18 amended as follows:

19 43-11-1. When used in this chapter, the following words
20 shall have the following meaning:

21 (a) "Institutions for the aged or infirm" means a place
22 either governmental or private which provides group living
23 arrangements for four (4) or more persons who are unrelated to the
24 operator and who are being provided food, shelter and personal
25 care whether any such place be organized or operated for profit or
26 not. The term "institution for aged or infirm" includes nursing
27 homes, pediatric skilled nursing facilities, psychiatric
28 residential treatment facilities, convalescent homes, * * * homes
29 for the aged, assisted living facilities, adult day services
30 facilities and residential facilities for the aged, provided that
31 these institutions fall within the scope of the definitions set
32 forth above. The term "institution for the aged or infirm" does
33 not include hospitals, clinics or mental institutions devoted
34 primarily to providing medical service.

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

38 (c) "Personal care" means assistance rendered by
39 personnel of the home to aged or infirm residents in performing
40 one or more of the activities of daily living, which includes, but
41 is not limited to, the bathing, walking, excretory functions,
42 feeding, personal grooming and dressing of such residents.

43 (d) "Psychiatric residential treatment facility" means
44 any nonhospital establishment with permanent facilities which
45 provides a 24-hour program of care by qualified therapists
46 including, but not limited to, duly licensed mental health
47 professionals, psychiatrists, psychologists, psychotherapists and
48 licensed certified social workers, for emotionally disturbed
49 children and adolescents referred to such facility by a court,
50 local school district or by the Department of Human Services, who
51 are not in an acute phase of illness requiring the services of a
52 psychiatric hospital, and are in need of such restorative
53 treatment services. For purposes of this paragraph, the term
54 "emotionally disturbed" means a condition exhibiting one or more
55 of the following characteristics over a long period of time and to
56 a marked degree, which adversely affects educational performance:

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

59 2. An inability to build or maintain satisfactory
60 relationships with peers and teachers;

61 3. Inappropriate types of behavior or feelings
62 under normal circumstances;

63 4. A general pervasive mood of unhappiness or
64 depression; or

65 5. A tendency to develop physical symptoms or
66 fears associated with personal or school problems. An
67 establishment furnishing primarily domiciliary care is not within
68 this definition.

69 (e) "Pediatric skilled nursing facility" means an
70 institution or a distinct part of an institution that is primarily
71 engaged in providing to inpatients skilled nursing care and
72 related services for persons under twenty-one (21) years of age
73 who require medical or nursing care or rehabilitation services for
74 the rehabilitation of injured, disabled or sick persons.

75 (f) "Licensing agency" means the State Department of
76 Health.

77 (g) "Assisted living facility" means an establishment
78 which is a residential setting that provides or coordinates
79 personal services, 24-hour supervision, scheduled and unscheduled
80 assistance, activities and health-related services, which is (i)
81 designed to minimize the residents' need to move; (ii) designed to
82 accommodate individual residents' changing needs and preferences;
83 (iii) designed to maximize residents' dignity, autonomy, privacy
84 and independence; and (iv) designed to encourage family and
85 community involvement.

86 (h) "Adult day services facility" means a
87 community-based group program for six (6) or more adults for any
88 part of the 24-hour day, designed to meet the needs of adults with
89 impairments through individual plans of care, which are
90 structured, comprehensive, planned, nonresidential programs
91 providing a variety of health, social and related support services
92 in a protective setting, enabling participants to live in the
93 community.

94 (i) "Residential facility for the aged" means a
95 building, establishment, complex or distinct part thereof which
96 accepts primarily aged persons for domiciliary care and which
97 provides on site to its residents room, board, non-medical living
98 assistance services appropriate to the residents' respective needs
99 and medical needs as prescribed by each resident's treating
100 physician. Residents in need of the following services may not be
101 admitted or retained in the residential facilities for the aged:

102 (i) Latter stages of Alzheimer's disease or

103 related disorders;

104 (ii) Physical or chemical restraints;

105 (iii) Poses a serious threat to self or others;

106 (iv) Required hypodermoclysis;

107 (v) Requires nasopharyngeal and tracheotomy

108 aspiration;

109 (vi) Requires initial phases of a regimen

110 involving administration of medical gases;

111 (vii) Requires a Levin tube;

112 (viii) Requires arterial blood gas monitoring; or

113 (ix) Unable to communicate their needs.

114 Residents in need of intravenous or daily intramuscular injections
115 or intravenous feedings, gastronomy feedings, insertion, sterile
116 irrigation and replacement of catheters, sterile wound care, and
117 treatment of extensive stage 3 or stage 4 decubitus ulcer or
118 exfoliative dermatitis may be retained on a temporary basis.

119 SECTION 2. Section 43-11-13, Mississippi Code of 1972, is
120 amended as follows:

121 43-11-13. (1) The licensing agency shall adopt, amend,
122 promulgate and enforce such rules, regulations and standards,
123 including classifications, with respect to all institutions for
124 the aged or infirm to be licensed hereunder as may be designed to
125 further the accomplishment of the purpose of this chapter in
126 promoting adequate care of individuals in such institutions in the
127 interest of public health, safety and welfare. Such rules,
128 regulations and standards shall be adopted and promulgated by the
129 licensing agency and shall be recorded and indexed in a book to be
130 maintained by the licensing agency in its main office in the State
131 of Mississippi, entitled "Rules, Regulations and Minimum Standards
132 for Institutions for the Aged or Infirm" and said book shall be
133 open and available to all institutions for the aged or infirm and
134 the public generally at all reasonable times. Upon the adoption
135 of such rules, regulations and standards, the licensing agency
136 shall mail copies thereof to all such institutions in the state

137 which have filed with said agency their names and addresses for
138 this purpose, but the failure to mail the same or the failure of
139 the institutions to receive the same shall in nowise affect the
140 validity thereof. Said rules, regulations and standards may be
141 amended by the licensing agency from time to time as necessary to
142 promote the health, safety and welfare of persons living in said
143 institutions.

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

154 (3) The State Board of Health shall promulgate rules and
155 regulations restricting the storage, quantity and classes of drugs
156 allowed in personal care homes. Residents requiring
157 administration of Schedule II Narcotics as defined in the Uniform
158 Controlled Substances Law may be admitted to a personal care home.
159 Schedule drugs may only be allowed in a personal care home if
160 they are administered or stored utilizing proper procedures under
161 the direct supervision of a licensed physician or nurse.

162 (4) The State Board of Health shall promulgate rules and
163 regulations and standards regarding the operation of assisted
164 living facilities which incorporate, but are not limited to, the
165 most current "Guidelines to States on Setting Minimum Standards
166 for Providers of Assisted Living" developed by the Assisted Living
167 Quality Coalition.

168 (5) The State Board of Health shall promulgate rules and
169 regulations and standards regarding the operation of adult day
170 services facilities which incorporate, but are not limited to, the

171 most current ranges and levels of care developed by the National
172 Adult Day Services Association (NADSA).

173 SECTION 3. This act shall take effect and be in force from
174 and after July 1, 1999.