

By: Burton

To: Public Health and  
Welfare

SENATE BILL NO. 2226

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.

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

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

18 43-11-1. When used in this chapter, the following words  
 19 shall have the following meaning:

20 (a) "Institutions for the aged or infirm" means a place  
 21 either governmental or private which provides group living  
 22 arrangements for four (4) or more persons who are unrelated to the  
 23 operator and who are being provided food, shelter and personal  
 24 care whether any such place be organized or operated for profit or  
 25 not. The term "institution for aged or infirm" includes nursing  
 26 homes, pediatric skilled nursing facilities, psychiatric  
 27 residential treatment facilities, convalescent homes, \* \* \* homes

28 for the aged, assisted living facilities, adult day services  
29 facilities and residential facilities for the aged, provided that  
30 these institutions fall within the scope of the definitions set  
31 forth above. The term "institution for the aged or infirm" does  
32 not include hospitals, clinics or mental institutions devoted  
33 primarily to providing medical service.

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

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

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

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

58 2. An inability to build or maintain satisfactory

59 relationships with peers and teachers;

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

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

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

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

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

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

85                   (h) "Adult day services facility" means a  
86 community-based group program for six (6) or more adults for any

87 part of the 24-hour day, designed to meet the needs of adults with  
88 impairments through individual plans of care, which are  
89 structured, comprehensive, planned, nonresidential programs  
90 providing a variety of health, social and related support services  
91 in a protective setting, enabling participants to live in the  
92 community.

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

101 (i) Latter stages of Alzheimer's disease or  
102 related disorders;

103 (ii) Physical or chemical restraints;

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

105 (iv) Required hypodermoclysis;

106 (v) Requires nasopharyngeal and tracheotomy  
107 aspiration;

108 (vi) Requires initial phases of a regimen  
109 involving administration of medical gases;

110 (vii) Requires a Levin tube;

111 (viii) Requires arterial blood gas monitoring; or

112 (ix) Unable to communicate their needs.

113 Residents in need of intravenous or daily intramuscular injections  
114 or intravenous feedings, gastronomy feedings, insertion, sterile

115 irrigation and replacement of catheters, sterile wound care, and  
116 treatment of extensive stage 3 or stage 4 decubitus ulcer or  
117 exfoliative dermatitis may be retained on a temporary basis.

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

120 43-11-13. (1) The licensing agency shall adopt, amend,  
121 promulgate and enforce such rules, regulations and standards,  
122 including classifications, with respect to all institutions for  
123 the aged or infirm to be licensed hereunder as may be designed to  
124 further the accomplishment of the purpose of this chapter in  
125 promoting adequate care of individuals in such institutions in the  
126 interest of public health, safety and welfare. Such rules,  
127 regulations and standards shall be adopted and promulgated by the  
128 licensing agency and shall be recorded and indexed in a book to be  
129 maintained by the licensing agency in its main office in the State  
130 of Mississippi, entitled "Rules, Regulations and Minimum Standards  
131 for Institutions for the Aged or Infirm" and said book shall be  
132 open and available to all institutions for the aged or infirm and  
133 the public generally at all reasonable times. Upon the adoption  
134 of such rules, regulations and standards, the licensing agency  
135 shall mail copies thereof to all such institutions in the state  
136 which have filed with said agency their names and addresses for  
137 this purpose, but the failure to mail the same or the failure of  
138 the institutions to receive the same shall in nowise affect the  
139 validity thereof. Said rules, regulations and standards may be  
140 amended by the licensing agency from time to time as necessary to  
141 promote the health, safety and welfare of persons living in said  
142 institutions.

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

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

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

167           (5) The State Board of Health shall promulgate rules and  
168 regulations and standards regarding the operation of adult day  
169 services facilities which incorporate, but are not limited to, the  
170 most current ranges and levels of care developed by the National

171 Adult Day Services Association (NADSA).

172           SECTION 3. This act shall take effect and be in force from  
173 and after July 1, 2000.