

By: Representative Taylor

To: Public Health and  
Welfare

HOUSE BILL NO. 1478  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE A RESIDENT OF A PERSONAL CARE HOME TO CONTINUE TO  
3 RESIDE IN THE PERSONAL CARE HOME, REGARDLESS OF A DETERMINATION BY  
4 THE LICENSING AGENCY THAT SKILLED NURSING SERVICES WOULD BE  
5 APPROPRIATE FOR THE RESIDENT, IF THE RESIDENT, THE RESIDENT'S  
6 GUARDIAN OR THE LEGALLY RECOGNIZED RESPONSIBLE PARTY FOR THE  
7 RESIDENT, AND A PHYSICIAN CONSENTS IN WRITING FOR THE RESIDENT TO  
8 CONTINUE TO RESIDE IN THE PERSONAL CARE HOME, TO DIRECT THE STATE  
9 BOARD OF HEALTH TO ADOPT CERTAIN REGULATIONS REGARDING PERSONAL  
10 CARE HOME PATIENT'S PERSONAL DEPOSIT ACCOUNTS AND THE USE OF  
11 PATIENT FOOD AND MEDICINE RECORDS IN PERSONAL CARE HOMES; AND FOR  
12 RELATED PURPOSES.

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

14 SECTION 1. Section 43-11-13, Mississippi Code of 1972, is  
15 amended as follows:

16 43-11-13. (1) The licensing agency shall adopt, amend,  
17 promulgate and enforce such rules, regulations and standards,  
18 including classifications, with respect to all institutions for  
19 the aged or infirm to be licensed hereunder as may be designed to  
20 further the accomplishment of the purpose of this chapter in  
21 promoting adequate care of individuals in such institutions in the  
22 interest of public health, safety and welfare. Such rules,  
23 regulations and standards shall be adopted and promulgated by the  
24 licensing agency and shall be recorded and indexed in a book to be  
25 maintained by the licensing agency in its main office in the State  
26 of Mississippi, entitled "Rules, Regulations and Minimum Standards  
27 for Institutions for the Aged or Infirm" and said book shall be  
28 open and available to all institutions for the aged or infirm and  
29 the public generally at all reasonable times. Upon the adoption  
30 of such rules, regulations and standards, the licensing agency  
31 shall mail copies thereof to all such institutions in the state

32 which have filed with said agency their names and addresses for  
33 this purpose, but the failure to mail the same or the failure of  
34 the institutions to receive the same shall in nowise affect the  
35 validity thereof. Said rules, regulations and standards may be  
36 amended by the licensing agency from time to time as necessary to  
37 promote the health, safety and welfare of persons living in said  
38 institutions.

39 (2) The licensee shall keep posted in a conspicuous place on  
40 the licensed premises all current rules, regulations and minimum  
41 standards applicable to fire protection measures as adopted by the  
42 licensing agency. The licensee shall furnish to the licensing  
43 agency at least once each six (6) months a certificate of approval  
44 and inspection by state or local fire authorities. Failure to  
45 comply with state laws and/or municipal ordinances and current  
46 rules, regulations and minimum standards as adopted by the  
47 licensing agency, relative to fire prevention measures, shall be  
48 prima facie evidence for revocation of license.

49 (3) The State Board of Health shall promulgate rules and  
50 regulations restricting the storage, quantity and classes of drugs  
51 allowed in personal care homes. Residents requiring  
52 administration of Schedule II Narcotics as defined in the Uniform  
53 Controlled Substances Law may be admitted to a personal care home.  
54 Schedule drugs may only be allowed in a personal care home if they  
55 are administered or stored utilizing proper procedures under the  
56 direct supervision of a licensed physician or nurse.

57 (4) (a) Notwithstanding any determination by the licensing  
58 agency that skilled nursing services would be appropriate for a  
59 resident of a personal care home, that resident, the resident's  
60 guardian or the legally recognized responsible party for the  
61 resident may consent in writing for the resident to continue to  
62 reside in the personal care home, if approved in writing by a  
63 licensed physician. Provided, however, that no personal care home  
64 shall allow more than two (2) residents, or ten percent (10%) of

65 the total number of residents in the facility, whichever is  
66 greater, to remain in the personal care home under the provisions  
67 of this subsection (4). This consent shall be deemed to be  
68 appropriately informed consent as described in the regulations  
69 promulgated by the licensing agency. After that written consent  
70 has been obtained, the resident shall have the right to continue  
71 to reside in the personal care home for as long as the resident  
72 meets the other conditions for residing in the personal care home.  
73 A copy of the written consent and the physician's approval shall  
74 be forwarded by the personal care home to the licensing agency.

75 (b) The State Board of Health shall promulgate rules  
76 and regulations restricting the handling of a resident's personal  
77 deposits by the director of a personal care home. Any funds given  
78 or provided for the purpose of supplying extra comforts,  
79 conveniences or services to any patient in any personal care home,  
80 and any funds otherwise received and held from, for or on behalf  
81 of any such resident, shall be deposited by the director or other  
82 proper officer of the personal care home to the credit of that  
83 patient in an account which shall be known as the Resident's  
84 Personal Deposit Fund. No more than one (1) month charge for the  
85 care, support, maintenance and medical attention of the patient  
86 shall be applied from such account at any one (1) time. After the  
87 death, discharge or transfer of any resident for whose benefit any  
88 such fund has been provided, any unexpended balance remaining in  
89 his personal deposit fund shall be applied for the payment of  
90 care, cost of support, maintenance and medical attention which is  
91 accrued. In the event any unexpended balance remains in that  
92 resident's personal deposit fund after complete reimbursement has  
93 been made for payment of care, support, maintenance and medical  
94 attention, and the director or other proper officer of the  
95 personal care home has been or shall be unable to locate the  
96 person or persons entitled to such unexpended balance, the  
97 director or other proper officer may, after the lapse of one (1)

98 year from the date of such death, discharge or transfer, deposit  
99 the unexpended balance to the credit of the personal care home's  
100 operating fund.

101 (c) The State Board of Health shall promulgate rules  
102 and regulations requiring personal care homes to maintain records  
103 relating to health condition, medicine dispensed and administered,  
104 and any reaction to such medicine. The director of the personal  
105 care home shall be responsible for explaining the availability of  
106 such records to the family of the resident at any time upon  
107 reasonable request.

108 (d) The State Board of Health shall evaluate the  
109 effects of this section as it promotes adequate care of  
110 individuals in personal care homes in the interest of public  
111 health, safety and welfare. It shall report its findings to the  
112 Chairmen of the Public Health and Welfare Committees of the House  
113 and Senate by January 1, 2003. This subsection (4) shall stand  
114 repealed June 30, 2003.

115 SECTION 2. This act shall take effect and be in force from  
116 and after July 1, 2001.