To: Public Health and Welfare

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representative Taylor

HOUSE BILL NO. 1478
(As Sent to Governor)

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

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

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

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

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

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

(4) (a) Notwithstanding any determination by the licensing
agency that skilled nursing services would be appropriate for a
resident of a personal care home, that resident, the resident's
guardian or the legally recognized responsible party for the
resident may consent in writing for the resident to continue to
reside in the personal care home, if approved in writing by a
licensed physician. Provided, however, that no personal care home
shall allow more than two (2) residents, or ten percent (10%) of
the total number of residents in the facility, whichever is
greater, to remain in the personal care home under the provisions
of this subsection (4). This consent shall be deemed to be
appropriately informed consent as described in the regulations
promulgated by the licensing agency. After that written consent
has been obtained, the resident shall have the right to continue
to reside in the personal care home for as long as the resident
meets the other conditions for residing in the personal care home.
A copy of the written consent and the physician's approval shall
be forwarded by the personal care home to the licensing agency.

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

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

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

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