

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2107

1 AN ACT TO AMEND SECTION 43-11-1, MISSISSIPPI CODE OF 1972, TO  
 2 DEFINE THE TERM "ADULT DAY SERVICES FACILITY" FOR PURPOSES OF  
 3 INSTITUTIONAL LICENSURE BY THE STATE DEPARTMENT OF HEALTH; TO  
 4 AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO DIRECT THE  
 5 STATE BOARD OF HEALTH TO PROMULGATE RULES, REGULATIONS AND  
 6 STANDARDS REGARDING THE OPERATION OF ADULT DAY SERVICES FACILITIES  
 7 WHICH INCORPORATE THE MOST CURRENT RANGES AND LEVELS OF CARE  
 8 DEVELOPED BY THE NATIONAL ADULT DAY SERVICES ASSOCIATION (NADSA);  
 9 TO CODIFY SECTION 43-11-8, MISSISSIPPI CODE OF 1972, TO PRESCRIBE  
 10 FEES FOR ADULT DAY CARE FACILITY LICENSURE; AND FOR RELATED  
 11 PURPOSES.

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

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

15 43-11-1. When used in this chapter, the following words  
 16 shall have the following meaning:

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

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

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

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

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

54                   2. An inability to build or maintain satisfactory  
55 relationships with peers and teachers;

56                   3. Inappropriate types of behavior or feelings  
57 under normal circumstances;

58                   4. A general pervasive mood of unhappiness or  
59 depression; or

60                   5. A tendency to develop physical symptoms or  
61 fears associated with personal or school problems. An

62 establishment furnishing primarily domiciliary care is not within  
63 this definition.

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

70 (f) "Licensing agency" means the State Department of  
71 Health.

72 (g) "Adult day services facility" means a  
73 community-based group program for adults designed to meet the  
74 needs of adults with impairments through individual plans of care,  
75 which are structured, comprehensive, planned, nonresidential  
76 programs providing a variety of health, social and related support  
77 services in a protective setting, enabling participants to live in  
78 the community. Exempted from this definition shall be any program  
79 licensed and certified by the Mississippi Department of Mental  
80 Health and any adult day services program provided to ten (10) or  
81 less individuals by a licensed institution for the aged or infirm.

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

84 43-11-13. (1) The licensing agency shall adopt, amend,  
85 promulgate and enforce such rules, regulations and standards,  
86 including classifications, with respect to all institutions for  
87 the aged or infirm to be licensed hereunder as may be designed to  
88 further the accomplishment of the purpose of this chapter in  
89 promoting adequate care of individuals in such institutions in the  
90 interest of public health, safety and welfare. Such rules,  
91 regulations and standards shall be adopted and promulgated by the  
92 licensing agency and shall be recorded and indexed in a book to be  
93 maintained by the licensing agency in its main office in the State  
94 of Mississippi, entitled "Rules, Regulations and Minimum Standards

95 for Institutions for the Aged or Infirm" and said book shall be  
96 open and available to all institutions for the aged or infirm and  
97 the public generally at all reasonable times. Upon the adoption  
98 of such rules, regulations and standards, the licensing agency  
99 shall mail copies thereof to all such institutions in the state  
100 which have filed with said agency their names and addresses for  
101 this purpose, but the failure to mail the same or the failure of  
102 the institutions to receive the same shall in nowise affect the  
103 validity thereof. Said rules, regulations and standards may be  
104 amended by the licensing agency from time to time as necessary to  
105 promote the health, safety and welfare of persons living in said  
106 institutions.

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

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

125 (4) The State Board of Health shall promulgate rules,  
126 regulations and standards regarding the operation of adult day  
127 services facilities which incorporate, but are not limited to, the

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

130 SECTION 3. The following provision shall be codified as  
131 Section 43-11-8, Mississippi Code of 1972:

132 43-11-8. (1) An application for a license for an adult day  
133 care facility shall be made to the licensing agency upon forms  
134 provided by it and shall contain such information as the licensing  
135 agency reasonably requires, which may include affirmative evidence  
136 of ability to comply with such reasonable standards, rules and  
137 regulations as are lawfully prescribed hereunder. Each  
138 application for a license for an adult day care facility, shall be  
139 accompanied by a license fee of Ten Dollars (\$10.00) for each  
140 person of licensed capacity, with a minimum fee per institution of  
141 Fifty Dollars (\$50.00), which shall be paid to the licensing  
142 agency. Each application for a license for an adult day care  
143 facility shall be accompanied by a license fee of Ten Dollars  
144 (\$10.00) for each bed in the institution, with a minimum fee per  
145 institution of Fifty Dollars (\$50.00), which shall be paid to the  
146 licensing agency.

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

149 (2) A license, unless suspended or revoked, shall be  
150 renewable annually upon payment by (a) the licensee of an adult  
151 day care facility, except for personal care homes, of a renewal  
152 fee of Ten Dollars (\$10.00) for licensed capacity in the  
153 institution, with a minimum fee per institution of Fifty Dollars  
154 (\$50.00), or (b) the licensee of an adult day care facility of a  
155 renewal fee of Ten Dollars (\$10.00) for each licensed facility,  
156 with a minimum fee per institution of Fifty Dollars (\$50.00),  
157 which shall be paid to the licensing agency, and upon filing by  
158 the licensee and approval by the licensing agency of an annual  
159 report upon such uniform dates and containing such information in  
160 such form as the licensing agency prescribes by regulation. Each

161 license shall be issued only for the premises and person or  
162 persons or other legal entity or entities named in the application  
163 and shall not be transferable or assignable except with the  
164 written approval of the licensing agency. Licenses shall be  
165 posted in a conspicuous place on the licensed premises.

166 (3) A fee known as a "user fee" shall be applicable and  
167 shall be paid to the licensing agency as set out in subsection (1)  
168 hereof. This user fee shall be assessed for the purpose of the  
169 required reviewing and inspections of the proposal of any  
170 institution in which there are additions, renovations,  
171 modernizations, expansion, alterations, conversions, modifications  
172 or replacement of the entire facility involved in such proposal.  
173 This fee includes the reviewing of architectural plans in all  
174 steps required. There shall be a minimum user fee of Fifty  
175 Dollars (\$50.00) and a maximum user fee of Two Thousand Dollars  
176 (\$2,000.00).

177 SECTION 4. This act shall take effect and be in force from  
178 and after July 1, 2001.