To: Public Health and Welfare

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Senator(s) Burton

SENATE BILL NO. 2107

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

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

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

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

(a) "Institutions for the aged or infirm" means a place either governmental or private which provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being provided food, shelter and personal care whether any such place be organized or operated for profit or not. The term "institution for aged or infirm" includes nursing homes, pediatric skilled nursing facilities, psychiatric residential treatment facilities, convalescent homes, homes for the aged, and adult day services facilities, provided that these institutions fall within the scope of the definitions set forth above. The term "institution for the aged or infirm" does not include hospitals, clinics or mental institutions devoted primarily to providing medical service.
(b) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, or any licensee herein or the legal successor thereof.

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

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

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

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

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

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

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

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

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

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

SECTION 2. 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 no wise 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) The State Board of Health shall promulgate rules, regulations and standards regarding the operation of adult day services facilities which incorporate, but are not limited to, the
most current ranges and levels of care developed by the National
Adult Day Services Association (NADSA).

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

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

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

(2) A license, unless suspended or revoked, shall be
renewable annually upon payment by (a) the licensee of an adult
day care facility, except for personal care homes, of a renewal
fee of Ten Dollars ($10.00) for licensed capacity in the
institution, with a minimum fee per institution of Fifty Dollars
($50.00), or (b) the licensee of an adult day care facility of a
renewal fee of Ten Dollars ($10.00) for each licensed facility,
with a minimum fee per institution of Fifty Dollars ($50.00),
which shall be paid to the licensing agency, and upon filing by
the licensee and approval by the licensing agency of an annual
report upon such uniform dates and containing such information in
such form as the licensing agency prescribes by regulation. Each
license shall be issued only for the premises and person or
persons or other legal entity or entities named in the application
and shall not be transferable or assignable except with the
written approval of the licensing agency. Licenses shall be
posted in a conspicuous place on the licensed premises.

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

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