HOUSE BILL NO. 1426

AN ACT TO AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE STAFFING REQUIREMENT FOR NURSING HOMES BY REQUIRING NOT LESS THAN 3.0 HOURS OF DIRECT NURSING CARE PER PATIENT DURING EACH TWENTY-FOUR HOUR PERIOD FOR NURSING HOME PATIENTS; 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 under this chapter as may be designed to further the accomplishment of the purpose of this chapter in promoting adequate care of individuals in those institutions in the interest of public health, safety and welfare. Those rules, regulations and standards shall be adopted 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 the 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 those rules, regulations and standards, the licensing agency shall mail copies thereof to all those institutions in the state that have filed with the 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 way affect the validity thereof. The
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 those 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. * * * However, * * * 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 resident 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 resident in an account that shall be known as the Resident's Personal Deposit Fund. No more than one (1) month's charge for the care, support, maintenance and medical attention of the resident shall be applied from the account at any one 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 that is accrued. If 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 the unexpended balance, the director or other proper officer may, after the lapse of one (1) year from the date of that 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 that medicine. The director of the personal care home shall be responsible for explaining the availability of those 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 repealed June 30, 2003.

(5) (a) Pursuant to regulations promulgated by the State Department of Health, the licensing agency shall require to be performed a criminal history record check on every new employee of a licensed institution for the aged or infirm or care facility who provides direct patient care or services and who is employed after July 1, 2001. Except as otherwise provided, no such new employee shall be permitted to provide direct patient care or services until the results of the criminal history record check have revealed no disqualifying record. Every such new employee shall provide a valid current social security number and/or driver's license number which shall be furnished to the licensing agency or to the private entity designated by the licensing agency to conduct the criminal history record check. The institution for the aged or infirm or care facility applying for the criminal history record check will be promptly notified of any disqualifying record found by the criminal history record check. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check.
(b) A licensed institution for the aged or infirm or care facility may make an offer of temporary employment to a prospective employee pending the results of a criminal history record check on the person. In those instances, the licensed institution for the aged or infirm or care facility shall provide to the licensing agency, or to the designated private entity, the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment.

(c) All fees incurred in compliance with this section shall be borne by the institution or facility requesting the criminal history record check. The licensing agency, or the designated private entity, is authorized to charge the institution for the aged or infirm or care facility a fee, which shall include the amount required by the Mississippi Department of Public Safety, the Federal Bureau of Investigation or any other agency designated by the licensing agency for the national criminal history record check, in addition to any necessary costs incurred by the licensing agency or the designated private entity for the handling and administration of the criminal history record checks. Costs incurred by a nursing home provider implementing this act shall be reimbursed as an allowable cost under Section 43-13-116.

(d) The licensing agency, care facility, and their agents, officers, employees, attorneys and representatives shall be presumed to be acting in good faith for any employment decision or action taken under paragraphs (a) and (b) of this subsection. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action.

(e) The licensing agency shall promulgate regulations to implement this subsection (5).

(6) The licensing agency shall require not less than 3.0 hours of direct nursing care per patient during each twenty-four hour period for patients in nursing facilities.
SECTION 2. This act shall take effect and be in force from and after July 1, 2002.