

By: Representatives Lane, Straughter, Watson To: Public Health and Human Services

## HOUSE BILL NO. 749

1 AN ACT TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL  
2 REQUIRE EACH RESIDENTIAL HEALTH CARE FACILITY LICENSED BY THE  
3 DEPARTMENT, AS A CONDITION OF LICENSURE, TO HAVE AN EMERGENCY  
4 GENERATOR LOCATED ON SITE THAT WILL OPERATE THE AIR CONDITIONING  
5 SYSTEM OF THE FACILITY DURING ANY PERIOD OF LOSS OF REGULAR  
6 ELECTRIC POWER AS A RESULT OF A DISASTER OR OTHER EMERGENCY  
7 SITUATION; TO AMEND SECTIONS 41-9-11, 41-9-15, 43-11-9 AND  
8 43-11-11, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
9 PROVISION; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The State Department of Health shall require each  
12 health care facility licensed by the department in which persons  
13 regularly reside for more than twenty-four (24) hours, as a  
14 condition of licensure, to have an emergency generator located on  
15 site that will operate the air conditioning system of the facility  
16 during any period of loss of regular electric power as a result of  
17 a disaster or other emergency situation.

18 **SECTION 2.** Section 41-9-11, Mississippi Code of 1972, is  
19 amended as follows:

20 41-9-11. Upon receipt of an application for license and the  
21 license fee, the licensing agency shall issue a license if the  
22 applicant and hospital facilities meet the requirements  
23 established under Sections 41-9-1 through 41-9-35 and Section 1 of  
24 this act, and the requirements of Section 41-7-173 et seq., where  
25 determined by the licensing agency to be applicable. A license,  
26 unless suspended or revoked, shall be renewable annually, upon  
27 filing by the licensee, and approval by the licensing agency of an  
28 annual report upon such uniform dates and containing such  
29 information in such form as the licensing agency prescribes by  
30 regulation and upon paying the annual fee for the license as

31 determined by the schedule and provisions of Section 41-9-9. Each  
32 license shall be issued only for the premises and persons or  
33 governmental units named in the application and shall not be  
34 transferable or assignable except with the written approval of the  
35 licensing agency. Licenses shall be posted in a conspicuous place  
36 on the licensed premises.

37 **SECTION 3.** Section 41-9-15, Mississippi Code of 1972, is  
38 amended as follows:

39 41-9-15. The licensing agency, after notice and opportunity  
40 for hearing to the applicant or licensee, is authorized to deny,  
41 suspend or revoke a license in any case in which it finds that  
42 there has been a substantial failure to comply with the  
43 requirements established under Section 41-9-1 through 41-9-35 or  
44 Section 1 of this act.

45 The notice shall be effected by registered mail, or by  
46 personal service, setting forth the particular reasons for the  
47 proposed action and a fixing date not less than thirty (30) days  
48 from the date of the mailing or service, at which the applicant or  
49 licensee shall be given an opportunity for a prompt and fair  
50 hearing. On the basis of any such hearing, or upon default of the  
51 applicant or licensee, the licensing agency shall make a  
52 determination specifying its findings of fact and conclusions of  
53 law. A copy of the determination shall be sent by registered mail  
54 or served personally upon the applicant or licensee. The decision  
55 revoking, suspending or denying the license or application shall  
56 become final thirty (30) days after it is so mailed or served,  
57 unless the applicant or licensee, within the thirty-day period,  
58 appeals the decision under Section 41-9-31.

59 The procedure governing hearings authorized by this section  
60 shall be in accordance with rules promulgated by the licensing  
61 agency. A full and complete record shall be kept of all  
62 proceedings, and all testimony shall be reported but need not be  
63 transcribed unless the decision is appealed under Section 41-9-31.

64 Witnesses may be subpoenaed by either party. Compensation shall  
65 be allowed to witnesses as in cases in the chancery court. Each  
66 party shall pay the expense of his own witnesses. The cost of the  
67 record shall be paid by the licensing agency. Any other party  
68 desiring a copy of the transcript shall pay therefor the  
69 reasonable cost of preparing the same.

70 **SECTION 4.** Section 43-11-9, Mississippi Code of 1972, is  
71 amended as follows:

72 43-11-9. (1) Upon receipt of an application for license and  
73 the license fee, the licensing agency shall issue a license if the  
74 applicant and the institutional facilities meet the requirements  
75 established under this chapter and Section 1 of this act and the  
76 requirements of Section 41-7-173 et seq., where determined by the  
77 licensing agency to be applicable. A license, unless suspended or  
78 revoked, shall be renewable annually upon payment by (a) the  
79 licensee of an institution for the aged or infirm, except for  
80 personal care homes, of a renewal fee of Twenty Dollars (\$20.00)  
81 for each bed in the institution, with a minimum fee per  
82 institution of Two Hundred Dollars (\$200.00), or (b) the licensee  
83 of a personal care home of a renewal fee of Fifteen Dollars  
84 (\$15.00) for each bed in the institution, with a minimum fee per  
85 institution of One Hundred Dollars (\$100.00), which shall be paid  
86 to the licensing agency, and upon filing by the licensee and  
87 approval by the licensing agency of an annual report upon such  
88 uniform dates and containing such information in such form as the  
89 licensing agency prescribes by regulation. Each license shall be  
90 issued only for the premises and person or persons or other legal  
91 entity or entities named in the application and shall not be  
92 transferable or assignable except with the written approval of the  
93 licensing agency. Licenses shall be posted in a conspicuous place  
94 on the licensed premises.

95 (2) A fee known as a "User Fee" shall be applicable and  
96 shall be paid to the licensing agency as set out in subsection (1)

97 of this section. This user fee shall be assessed for the purpose  
98 of the required reviewing and inspections of the proposal of any  
99 institution in which there are additions, renovations,  
100 modernizations, expansion, alterations, conversions, modifications  
101 or replacement of the entire facility involved in the proposal.  
102 This fee includes the reviewing of architectural plans in all  
103 steps required. There shall be a minimum user fee of Fifty  
104 Dollars (\$50.00) and a maximum user fee of Five Thousand Dollars  
105 (\$5,000.00).

106 (3) No governmental entity or agency shall be required to  
107 pay the fee or fees set forth in this section.

108 **SECTION 5.** Section 43-11-11, Mississippi Code of 1972, is  
109 amended as follows:

110 43-11-11. The licensing agency after notice and opportunity  
111 for a hearing to the applicant or licensee is authorized to deny,  
112 suspend or revoke a license in any case in which it finds that  
113 there has been a substantial failure to comply with the  
114 requirements established under this chapter or Section 1 of this  
115 act.

116 The notice shall be effected by registered mail, or by  
117 personal service setting forth the particular reasons for the  
118 proposed action and fixing a date not less than thirty (30) days  
119 from the date of the mailing or \* \* \* service, at which time the  
120 applicant or licensee shall be given an opportunity for a prompt  
121 and fair hearing. On the basis of any such hearing, or upon  
122 default of the applicant or licensee, the licensing agency shall  
123 make a determination specifying its findings of fact and  
124 conclusions of law. A copy of the determination shall be sent by  
125 registered mail or served personally upon the applicant or  
126 licensee. The decision revoking, suspending or denying the  
127 license or application shall become final thirty (30) days after  
128 it is so mailed or served, unless the applicant or licensee,

129 within the thirty (30) day period, appeals \* \* \* the decision to  
130 the chancery court under Section 43-11-23.

131 The procedure governing hearings authorized by this section  
132 shall be in accordance with rules promulgated by the licensing  
133 agency. A full and complete record shall be kept of all  
134 proceedings, and all testimony shall be recorded but need not be  
135 transcribed unless the decision is appealed under Section  
136 43-11-23. Witnesses may be subpoenaed by either party.  
137 Compensation shall be allowed to witnesses as in cases in the  
138 chancery court. Each party shall pay the expense of his own  
139 witnesses. The cost of the record shall be paid by the licensing  
140 agency provided any other party desiring a copy of the transcript  
141 shall pay therefor the reasonable cost of preparing the same.

142 **SECTION 6.** This act shall take effect and be in force from  
143 and after July 1, 2006.