

By: Representative Evans (91st)

To: Insurance; Public Health  
and Human Services

HOUSE BILL NO. 301

1 AN ACT TO REQUIRE NURSING HOMES TO PURCHASE AND MAINTAIN A  
2 CERTAIN MINIMUM AMOUNT OF LIABILITY INSURANCE; TO AMEND SECTIONS  
3 43-11-7 AND 43-11-9, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
4 PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) Any owner or operator of any nursing home  
7 shall purchase and maintain not less than One Million Dollars  
8 (\$1,000,000.00) in liability insurance for each nursing home. The  
9 liability insurance shall cover each resident per occurrence of  
10 negligence. For the purposes of this section, "nursing home"  
11 means any nursing home, personal care home, assisted living  
12 facility, retirement home, convalescence home or facility, hospice  
13 care services, home health service, long term care facility, or  
14 any facility which provides medical treatment care, personal care,  
15 supervision, medicine, nutrition or other custodial palliative and  
16 rehabilitative care to the elderly, infirm, disabled or  
17 incapacitated.

18 (2) The liability coverage amount described in this section  
19 shall include coverage for indemnity of the insured only. The  
20 cost of defending the insured shall not be covered.

21 (3) No person may establish, own or operate a nursing home  
22 in the state unless and until the person provides proof of  
23 liability insurance coverage as described under this section to  
24 the State Department of Health.

25 (4) The owner or operator of any nursing home shall disclose  
26 to the patient or other person with whom the owner or operator is  
27 contracting at the signing of a contract or the initial agreement  
28 to provide nursing home care whether the owner or operator carries



29 liability insurance. The disclosure shall be written, the  
30 structure and composition of which shall be determined by the  
31 State Department of Health, and shall be placed immediately before  
32 the space reserved in the contract for the signature of the  
33 patient or other person with whom the owner or operator is  
34 contracting to provide nursing home care. The disclosure shall be  
35 boldfaced and conspicuous type which is larger than the type of  
36 the remaining text of the contract. The owner or operator of any  
37 nursing home shall also prominently display such disclosure in a  
38 conspicuous location in each of his nursing home facilities.

39 (5) The State Department of Health shall suspend or revoke  
40 the license or certificate of any nursing home whose owner or  
41 operator violates the provisions of this section.

42 **SECTION 2.** Section 43-11-7, Mississippi Code of 1972, is  
43 amended as follows:

44 43-11-7. Any person, as defined in Section 43-11-1, may  
45 apply for a license as provided in this section. An application  
46 for a license shall be made to the licensing agency upon forms  
47 provided by it and shall contain such information as the licensing  
48 agency reasonably requires, which may include affirmative evidence  
49 of the ability to comply with such reasonable standards, rules and  
50 regulations as are lawfully prescribed under this chapter. An  
51 application for a license to operate a nursing home also shall  
52 include affirmative evidence of the ability to comply with the  
53 requirement of liability insurance coverage. Each application for  
54 a license for an institution for the aged or infirm, except for  
55 personal care homes, shall be accompanied by a license fee of  
56 Twenty Dollars (\$20.00) for each bed in the institution, with a  
57 minimum fee per institution of Two Hundred Dollars (\$200.00),  
58 which shall be paid to the licensing agency. Each application for  
59 a license for a personal care home shall be accompanied by a  
60 license fee of Fifteen Dollars (\$15.00) for each bed in the



61 institution, with a minimum fee per institution of One Hundred  
62 Dollars (\$100.00), which shall be paid to the licensing agency.

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

65 **SECTION 3.** Section 43-11-9, Mississippi Code of 1972, is  
66 amended as follows:

67 43-11-9. (1) Upon receipt of an application for license and  
68 the license fee, the licensing agency shall issue a license if the  
69 applicant and the institutional facilities meet the requirements  
70 established under this chapter and the requirements of Section  
71 41-7-173 et seq., where determined by the licensing agency to be  
72 applicable. A license, unless suspended or revoked, shall be  
73 renewable annually upon payment by (a) the licensee of an  
74 institution for the aged or infirm, except for personal care  
75 homes, of a renewal fee of Twenty Dollars (\$20.00) for each bed in  
76 the institution, with a minimum fee per institution of Two Hundred  
77 Dollars (\$200.00), or (b) the licensee of a personal care home of  
78 a renewal fee of Fifteen Dollars (\$15.00) for each bed in the  
79 institution, with a minimum fee per institution of One Hundred  
80 Dollars (\$100.00), which shall be paid to the licensing agency,  
81 and upon filing by the licensee and approval by the licensing  
82 agency of an annual report upon such uniform dates and containing  
83 such information in such form as the licensing agency prescribes  
84 by regulation. For the renewal of a license to operate a nursing  
85 home, the annual report must show compliance with the requirement  
86 of liability insurance coverage. Each license shall be issued  
87 only for the premises and person or persons or other legal entity  
88 or entities named in the application and shall not be transferable  
89 or assignable except with the written approval of the licensing  
90 agency. Licenses shall be posted in a conspicuous place on the  
91 licensed premises.

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



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

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

105 **SECTION 4.** This act shall take effect and be in force from  
106 and after July 1, 2012.

