

By: Representatives Horan, Reynolds

To: Corrections

HOUSE BILL NO. 936

1 AN ACT TO AMEND SECTION 41-85-5, MISSISSIPPI CODE OF 1972, TO  
 2 AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO PROVIDE FOR HOSPICE  
 3 CARE SERVICES FOR INMATES WHO ARE CONFINED IN FACILITIES UNDER THE  
 4 JURISDICTION OF THE DEPARTMENT AND WHO ARE TERMINALLY ILL; TO  
 5 AUTHORIZE THE DEPARTMENT TO HAVE THOSE HOSPICE CARE SERVICES  
 6 PROVIDED BY PROPERLY QUALIFIED EMPLOYEES OF THE DEPARTMENT OR TO  
 7 CONTRACT FOR THE PROVISION OF THE HOSPICE CARE SERVICES; TO  
 8 PROVIDE THAT IF THE DEPARTMENT PROVIDES THE HOSPICE CARE SERVICES  
 9 WITH DEPARTMENT EMPLOYEES, THE DEPARTMENT IS NOT REQUIRED TO HAVE  
 10 A LICENSE UNDER THE MISSISSIPPI HOSPICE LAW; TO AMEND SECTION  
 11 41-85-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
 12 PROVISIONS; TO AMEND SECTIONS 43-11-1 AND 43-11-13, MISSISSIPPI  
 13 CODE OF 1972, TO DEFINE THE TERM "SPECIAL CARE FACILITIES FOR  
 14 PAROLED INMATES" AND PRESCRIBE CONDITIONS FOR LICENSURE BY THE  
 15 STATE DEPARTMENT OF HEALTH; TO AMEND SECTIONS 47-5-28 AND 47-7-4,  
 16 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT  
 17 OF CORRECTIONS TO ESTABLISH A PROGRAM TO GRANT MEDICAL PAROLE TO  
 18 SUCH SPECIAL CARE FACILITIES FOR MEDICALLY FRAIL INMATES AND TO  
 19 ESTABLISH ELIGIBILITY REQUIREMENTS FOR SUCH PAROLE; TO CODIFY  
 20 SECTION 43-13-117.6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND  
 21 DIRECT THE DIVISION OF MEDICAID TO APPLY FOR NECESSARY WAIVERS FOR  
 22 MEDICAID REIMBURSEMENT FOR SERVICES PROVIDED AT SUCH SPECIAL CARE  
 23 FACILITIES FOR PAROLED INMATES; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** The Department of Corrections is authorized to  
 26 provide for hospice care services for inmates who are confined in  
 27 facilities under the jurisdiction of the department and who are  
 28 terminally ill as defined in Section 41-85-3. The department may



29 have those hospice care services provided by properly qualified  
30 employees of the department or may contract for the providing of  
31 the hospice care services. If the department provides the hospice  
32 care services with department employees, the department is not  
33 required to have a license under the Mississippi Hospice Law.

34 **SECTION 2.** Section 41-85-5, Mississippi Code of 1972, is  
35 amended as follows:

36 41-85-5. (1) It is unlawful for a person to operate or  
37 maintain a hospice, use the title "hospice," or represent that the  
38 person provides a hospice program of care, without first obtaining  
39 a license therefor from the department.

40 (2) The license shall be displayed in a conspicuous place  
41 inside the hospice program office; shall be valid only in the  
42 possession of the person to which it is issued; shall not be  
43 subject to sale, assignment or other transfer, voluntary or  
44 involuntary; and shall not be valid for any hospice other than the  
45 hospice for which originally issued.

46 (3) Services provided by a hospital, nursing home or other  
47 health care facility or health care provider shall not be  
48 considered to constitute a hospice program of care unless such  
49 facility, provider or care giver establishes a freestanding or  
50 distinct hospice unit, staff, facility and services to provide  
51 hospice home care, homelike inpatient hospice care, or outpatient  
52 hospice care under the separate and distinct administrative  
53 authority of a hospice program.



54 (4) A license for a hospice program shall not be issued if  
55 the hospice is to be located in an area in violation of any local  
56 zoning ordinances or regulations.

57 (5) The Department of Corrections may provide hospice care  
58 services to inmates confined in facilities under the jurisdiction  
59 of the department as authorized under Section 1 of this act  
60 without a license issued under this chapter.

61 **SECTION 3.** Section 43-11-1, Mississippi Code of 1972, is  
62 amended as follows:

63 43-11-1. When used in this chapter, the following words  
64 shall have the following meaning:

65 (a) "Institutions for the aged or infirm" means a place  
66 either governmental or private that provides group living  
67 arrangements for four (4) or more persons who are unrelated to the  
68 operator and who are being provided food, shelter and personal  
69 care, whether any such place is organized or operated for profit  
70 or not. The term "institution for the aged or infirm" includes  
71 nursing homes, pediatric skilled nursing facilities, psychiatric  
72 residential treatment facilities, convalescent homes, homes for  
73 the aged \* \* \*, adult foster care facilities \* \* \* and special  
74 care facilities for paroled inmates, provided that these  
75 institutions fall within the scope of the definitions set forth  
76 above. The term "institution for the aged or infirm" does not  
77 include hospitals, clinics or mental institutions devoted  
78 primarily to providing medical service, and does not include any



79 private residence in which the owner of the residence is providing  
80 personal care services to disabled or homeless veterans under an  
81 agreement with, and in compliance with the standards prescribed  
82 by, the United States Department of Veterans Affairs, if the owner  
83 of the residence also provided personal care services to disabled  
84 or homeless veterans at any time during calendar year 2008.

85 (b) "Person" means any individual, firm, partnership,  
86 corporation, company, association or joint-stock association, or  
87 any licensee herein or the legal successor thereof.

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

93 (d) "Psychiatric residential treatment facility" means  
94 any nonhospital establishment with permanent facilities which  
95 provides a twenty-four-hour program of care by qualified  
96 therapists, including, but not limited to, duly licensed mental  
97 health professionals, psychiatrists, psychologists,  
98 psychotherapists and licensed certified social workers, for  
99 emotionally disturbed children and adolescents referred to such  
100 facility by a court, local school district or by the Department of  
101 Human Services, who are not in an acute phase of illness requiring  
102 the services of a psychiatric hospital, and are in need of such  
103 restorative treatment services. For purposes of this paragraph,



104 the term "emotionally disturbed" means a condition exhibiting one  
105 or more of the following characteristics over a long period of  
106 time and to a marked degree, which adversely affects educational  
107 performance:

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

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

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

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

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

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

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



128 (g) "Medical records" mean, without restriction, those  
129 medical histories, records, reports, summaries, diagnoses and  
130 prognoses, records of treatment and medication ordered and given,  
131 notes, entries, x-rays and other written or graphic data prepared,  
132 kept, made or maintained in institutions for the aged or infirm  
133 that pertain to residency in, or services rendered to residents  
134 of, an institution for the aged or infirm.

135 (h) "Adult foster care facility" means a home setting  
136 for vulnerable adults in the community who are unable to live  
137 independently due to physical, emotional, developmental or mental  
138 impairments, or in need of emergency and continuing protective  
139 social services for purposes of preventing further abuse or  
140 neglect and for safeguarding and enhancing the welfare of the  
141 abused or neglected vulnerable adult. Adult foster care programs  
142 shall be designed to meet the needs of vulnerable adults with  
143 impairments through individual plans of care, which provide a  
144 variety of health, social and related support services in a  
145 protective setting, enabling participants to live in the  
146 community. Adult foster care programs may be (i) traditional,  
147 where the foster care provider lives in the residence and is the  
148 primary caregiver to clients in the home; (ii) corporate, where  
149 the foster care home is operated by a corporation with shift staff  
150 delivering services to clients; or (iii) shelter, where the foster  
151 care home accepts clients on an emergency short-term basis for up  
152 to thirty (30) days.



153           (i) "Special care facilities for paroled inmates" means  
154 long-term care and skilled nursing facilities licensed as special  
155 care facilities for medically frail paroled inmates, formed to  
156 ease the burden of prison overcrowding and provide compassionate  
157 release and medical parole initiatives while impacting economic  
158 outcomes for the Mississippi Prison System. The facilities shall  
159 meet all Mississippi Department of Health and federal Center for  
160 Medicaid Services (CMS) requirements and shall be regulated by  
161 both agencies; provided, however, such regulations shall not be as  
162 restrictive as those required for personal care homes and other  
163 institutions devoted primarily to providing medical services. The  
164 facilities will offer physical, occupational and speech therapy,  
165 nursing services, wound care, a dedicated COVID services unit,  
166 individualized patient centered plans of care, social services,  
167 spiritual services, physical activities, transportation,  
168 medication, durable medical equipment, personalized meal plans by  
169 a licensed dietician and security services. There may be up to  
170 three (3) facilities located in each Public Service Commission  
171 district, to be designated by the Chairman of the State Parole  
172 Board or his designee.

173           **SECTION 4.** Section 43-11-13, Mississippi Code of 1972, is  
174 amended as follows:

175           43-11-13. (1) The licensing agency shall adopt, amend,  
176 promulgate and enforce such rules, regulations and standards,  
177 including classifications, with respect to all institutions for



178 the aged or infirm to be licensed under this chapter as may be  
179 designed to further the accomplishment of the purpose of this  
180 chapter in promoting adequate care of individuals in those  
181 institutions in the interest of public health, safety and welfare.  
182 Those rules, regulations and standards shall be adopted and  
183 promulgated by the licensing agency and shall be recorded and  
184 indexed in a book to be maintained by the licensing agency in its  
185 main office in the State of Mississippi, entitled "Rules,  
186 Regulations and Minimum Standards for Institutions for the Aged or  
187 Infirm" and the book shall be open and available to all  
188 institutions for the aged or infirm and the public generally at  
189 all reasonable times. Upon the adoption of those rules,  
190 regulations and standards, the licensing agency shall mail copies  
191 thereof to all those institutions in the state that have filed  
192 with the agency their names and addresses for this purpose, but  
193 the failure to mail the same or the failure of the institutions to  
194 receive the same shall in no way affect the validity thereof. The  
195 rules, regulations and standards may be amended by the licensing  
196 agency, from time to time, as necessary to promote the health,  
197 safety and welfare of persons living in those institutions.

198 (2) The licensee shall keep posted in a conspicuous place on  
199 the licensed premises all current rules, regulations and minimum  
200 standards applicable to fire protection measures as adopted by the  
201 licensing agency. The licensee shall furnish to the licensing  
202 agency at least once each six (6) months a certificate of approval





203 and inspection by state or local fire authorities. Failure to  
204 comply with state laws and/or municipal ordinances and current  
205 rules, regulations and minimum standards as adopted by the  
206 licensing agency, relative to fire prevention measures, shall be  
207 prima facie evidence for revocation of license.

208 (3) The State Board of Health shall promulgate rules and  
209 regulations restricting the storage, quantity and classes of drugs  
210 allowed in personal care homes and adult foster care facilities.  
211 Residents requiring administration of Schedule II Narcotics as  
212 defined in the Uniform Controlled Substances Law may be admitted  
213 to a personal care home. Schedule drugs may only be allowed in a  
214 personal care home if they are administered or stored utilizing  
215 proper procedures under the direct supervision of a licensed  
216 physician or nurse.

217 (4) (a) Notwithstanding any determination by the licensing  
218 agency that skilled nursing services would be appropriate for a  
219 resident of a personal care home, that resident, the resident's  
220 guardian or the legally recognized responsible party for the  
221 resident may consent in writing for the resident to continue to  
222 reside in the personal care home, if approved in writing by a  
223 licensed physician. However, no personal care home shall allow  
224 more than two (2) residents, or ten percent (10%) of the total  
225 number of residents in the facility, whichever is greater, to  
226 remain in the personal care home under the provisions of this  
227 subsection (4). This consent shall be deemed to be appropriately



228 informed consent as described in the regulations promulgated by  
229 the licensing agency. After that written consent has been  
230 obtained, the resident shall have the right to continue to reside  
231 in the personal care home for as long as the resident meets the  
232 other conditions for residing in the personal care home. A copy  
233 of the written consent and the physician's approval shall be  
234 forwarded by the personal care home to the licensing agency.

235 (b) The State Board of Health shall promulgate rules  
236 and regulations restricting the handling of a resident's personal  
237 deposits by the director of a personal care home. Any funds given  
238 or provided for the purpose of supplying extra comforts,  
239 conveniences or services to any resident in any personal care  
240 home, and any funds otherwise received and held from, for or on  
241 behalf of any such resident, shall be deposited by the director or  
242 other proper officer of the personal care home to the credit of  
243 that resident in an account that shall be known as the Resident's  
244 Personal Deposit Fund. No more than one (1) month's charge for  
245 the care, support, maintenance and medical attention of the  
246 resident shall be applied from the account at any one time. After  
247 the death, discharge or transfer of any resident for whose benefit  
248 any such fund has been provided, any unexpended balance remaining  
249 in his personal deposit fund shall be applied for the payment of  
250 care, cost of support, maintenance and medical attention that is  
251 accrued. If any unexpended balance remains in that resident's  
252 personal deposit fund after complete reimbursement has been made



253 for payment of care, support, maintenance and medical attention,  
254 and the director or other proper officer of the personal care home  
255 has been or shall be unable to locate the person or persons  
256 entitled to the unexpended balance, the director or other proper  
257 officer may, after the lapse of one (1) year from the date of that  
258 death, discharge or transfer, deposit the unexpended balance to  
259 the credit of the personal care home's operating fund.

260 (c) The State Board of Health shall promulgate rules  
261 and regulations requiring personal care homes to maintain records  
262 relating to health condition, medicine dispensed and administered,  
263 and any reaction to that medicine. The director of the personal  
264 care home shall be responsible for explaining the availability of  
265 those records to the family of the resident at any time upon  
266 reasonable request.

267 (5) The State Board of Health and the Mississippi Department  
268 of Corrections shall jointly issue rules and regulations for the  
269 operation of the special care facilities for paroled inmates.

270 ( \* \* \*6) (a) For the purposes of this subsection

271 ( \* \* \*6):

272 (i) "Licensed entity" means a hospital, nursing  
273 home, personal care home, home health agency, hospice or adult  
274 foster care facility;

275 (ii) "Covered entity" means a licensed entity or a  
276 health care professional staffing agency;



277 (iii) "Employee" means any individual employed by  
278 a covered entity, and also includes any individual who by contract  
279 provides to the patients, residents or clients being served by the  
280 covered entity direct, hands-on, medical patient care in a  
281 patient's, resident's or client's room or in treatment or recovery  
282 rooms. The term "employee" does not include health care  
283 professional/vocational technical students performing clinical  
284 training in a licensed entity under contracts between their  
285 schools and the licensed entity, and does not include students at  
286 high schools located in Mississippi who observe the treatment and  
287 care of patients in a licensed entity as part of the requirements  
288 of an allied-health course taught in the high school, if:

289 1. The student is under the supervision of a  
290 licensed health care provider; and

291 2. The student has signed an affidavit that  
292 is on file at the student's school stating that he or she has not  
293 been convicted of or pleaded guilty or nolo contendere to a felony  
294 listed in paragraph (d) of this subsection ( \* \* \*6), or that any  
295 such conviction or plea was reversed on appeal or a pardon was  
296 granted for the conviction or plea. Before any student may sign  
297 such an affidavit, the student's school shall provide information  
298 to the student explaining what a felony is and the nature of the  
299 felonies listed in paragraph (d) of this subsection ( \* \* \*6).

300 However, the health care professional/vocational technical  
301 academic program in which the student is enrolled may require the



302 student to obtain criminal history record checks. In such  
303 incidences, paragraph (a)(iii)1 and 2 of this subsection ( \* \* \*6)  
304 does not preclude the licensing entity from processing submitted  
305 fingerprints of students from healthcare-related  
306 professional/vocational technical programs who, as part of their  
307 program of study, conduct observations and provide clinical care  
308 and services in a covered entity.

309 (b) Under regulations promulgated by the State Board of  
310 Health, the licensing agency shall require to be performed a  
311 criminal history record check on (i) every new employee of a  
312 covered entity who provides direct patient care or services and  
313 who is employed on or after July 1, 2003, and (ii) every employee  
314 of a covered entity employed before July 1, 2003, who has a  
315 documented disciplinary action by his or her present employer. In  
316 addition, the licensing agency shall require the covered entity to  
317 perform a disciplinary check with the professional licensing  
318 agency of each employee, if any, to determine if any disciplinary  
319 action has been taken against the employee by that agency.

320 Except as otherwise provided in paragraph (c) of this  
321 subsection ( \* \* \*6), no such employee hired on or after July 1,  
322 2003, shall be permitted to provide direct patient care until the  
323 results of the criminal history record check have revealed no  
324 disqualifying record or the employee has been granted a waiver.  
325 In order to determine the employee applicant's suitability for  
326 employment, the applicant shall be fingerprinted. Fingerprints



327 shall be submitted to the licensing agency from scanning, with the  
328 results processed through the Department of Public Safety's  
329 Criminal Information Center. The fingerprints shall then be  
330 forwarded by the Department of Public Safety to the Federal Bureau  
331 of Investigation for a national criminal history record check.  
332 The licensing agency shall notify the covered entity of the  
333 results of an employee applicant's criminal history record check.  
334 If the criminal history record check discloses a felony  
335 conviction, guilty plea or plea of nolo contendere to a felony of  
336 possession or sale of drugs, murder, manslaughter, armed robbery,  
337 rape, sexual battery, sex offense listed in Section 45-33-23(h),  
338 child abuse, arson, grand larceny, burglary, gratification of lust  
339 or aggravated assault, or felonious abuse and/or battery of a  
340 vulnerable adult that has not been reversed on appeal or for which  
341 a pardon has not been granted, the employee applicant shall not be  
342 eligible to be employed by the covered entity.

343 (c) Any such new employee applicant may, however, be  
344 employed on a temporary basis pending the results of the criminal  
345 history record check, but any employment contract with the new  
346 employee shall be voidable if the new employee receives a  
347 disqualifying criminal history record check and no waiver is  
348 granted as provided in this subsection ( \* \* \*6).

349 (d) Under regulations promulgated by the State Board of  
350 Health, the licensing agency shall require every employee of a  
351 covered entity employed before July 1, 2003, to sign an affidavit



352 stating that he or she has not been convicted of or pleaded guilty  
353 or nolo contendere to a felony of possession or sale of drugs,  
354 murder, manslaughter, armed robbery, rape, sexual battery, any sex  
355 offense listed in Section 45-33-23(h), child abuse, arson, grand  
356 larceny, burglary, gratification of lust, aggravated assault, or  
357 felonious abuse and/or battery of a vulnerable adult, or that any  
358 such conviction or plea was reversed on appeal or a pardon was  
359 granted for the conviction or plea. No such employee of a covered  
360 entity hired before July 1, 2003, shall be permitted to provide  
361 direct patient care until the employee has signed the affidavit  
362 required by this paragraph (d). All such existing employees of  
363 covered entities must sign the affidavit required by this  
364 paragraph (d) within six (6) months of the final adoption of the  
365 regulations promulgated by the State Board of Health. If a person  
366 signs the affidavit required by this paragraph (d), and it is  
367 later determined that the person actually had been convicted of or  
368 pleaded guilty or nolo contendere to any of the offenses listed in  
369 this paragraph (d) and the conviction or plea has not been  
370 reversed on appeal or a pardon has not been granted for the  
371 conviction or plea, the person is guilty of perjury. If the  
372 offense that the person was convicted of or pleaded guilty or nolo  
373 contendere to was a violent offense, the person, upon a conviction  
374 of perjury under this paragraph, shall be punished as provided in  
375 Section 97-9-61. If the offense that the person was convicted of  
376 or pleaded guilty or nolo contendere to was a nonviolent offense,



377 the person, upon a conviction of perjury under this paragraph,  
378 shall be punished by a fine of not more than Five Hundred Dollars  
379 (\$500.00), or by imprisonment in the county jail for not more than  
380 six (6) months, or by both such fine and imprisonment.

381 (e) The covered entity may, in its discretion, allow  
382 any employee who is unable to sign the affidavit required by  
383 paragraph (d) of this subsection ( \* \* \*6) or any employee  
384 applicant aggrieved by an employment decision under this  
385 subsection ( \* \* \*6) to appear before the covered entity's hiring  
386 officer, or his or her designee, to show mitigating circumstances  
387 that may exist and allow the employee or employee applicant to be  
388 employed by the covered entity. The covered entity, upon report  
389 and recommendation of the hiring officer, may grant waivers for  
390 those mitigating circumstances, which shall include, but not be  
391 limited to: (i) age at which the crime was committed; (ii)  
392 circumstances surrounding the crime; (iii) length of time since  
393 the conviction and criminal history since the conviction; (iv)  
394 work history; (v) current employment and character references; and  
395 (vi) other evidence demonstrating the ability of the individual to  
396 perform the employment responsibilities competently and that the  
397 individual does not pose a threat to the health or safety of the  
398 patients of the covered entity.

399 (f) The licensing agency may charge the covered entity  
400 submitting the fingerprints a fee not to exceed Fifty Dollars  
401 (\$50.00), which covered entity may, in its discretion, charge the





402 same fee, or a portion thereof, to the employee applicant. Any  
403 increase in the fee charged by the licensing agency under this  
404 paragraph shall be in accordance with the provisions of Section  
405 41-3-65. Any costs incurred by a covered entity implementing this  
406 subsection ( \* \* \*6) shall be reimbursed as an allowable cost  
407 under Section 43-13-116.

408 (g) If the results of an employee applicant's criminal  
409 history record check reveals no disqualifying event, then the  
410 covered entity shall, within two (2) weeks of the notification of  
411 no disqualifying event, provide the employee applicant with a  
412 notarized letter signed by the chief executive officer of the  
413 covered entity, or his or her authorized designee, confirming the  
414 employee applicant's suitability for employment based on his or  
415 her criminal history record check. An employee applicant may use  
416 that letter for a period of two (2) years from the date of the  
417 letter to seek employment with any covered entity without the  
418 necessity of an additional criminal history record check. Any  
419 covered entity presented with the letter may rely on the letter  
420 with respect to an employee applicant's criminal background and is  
421 not required for a period of two (2) years from the date of the  
422 letter to conduct or have conducted a criminal history record  
423 check as required in this subsection ( \* \* \*6).

424 (h) The licensing agency, the covered entity, and their  
425 agents, officers, employees, attorneys and representatives, shall  
426 be presumed to be acting in good faith for any employment decision



427 or action taken under this subsection ( \* \* \*6). The presumption  
428 of good faith may be overcome by a preponderance of the evidence  
429 in any civil action. No licensing agency, covered entity, nor  
430 their agents, officers, employees, attorneys and representatives  
431 shall be held liable in any employment decision or action based in  
432 whole or in part on compliance with or attempts to comply with the  
433 requirements of this subsection ( \* \* \*6).

434 (i) The licensing agency shall promulgate regulations  
435 to implement this subsection ( \* \* \*6).

436 (j) The provisions of this subsection ( \* \* \*6) shall  
437 not apply to:

438 (i) Applicants and employees of the University of  
439 Mississippi Medical Center for whom criminal history record checks  
440 and fingerprinting are obtained in accordance with Section  
441 37-115-41; or

442 (ii) Health care professional/vocational technical  
443 students for whom criminal history record checks and  
444 fingerprinting are obtained in accordance with Section 37-29-232.

445 ( \* \* \*7) The State Board of Health shall promulgate rules,  
446 regulations and standards regarding the operation of adult foster  
447 care facilities.

448 **SECTION 5.** Section 47-5-28, Mississippi Code of 1972, is  
449 amended as follows:

450 47-5-28. The commissioner shall have the following powers  
451 and duties:



452 (a) To implement and administer laws and policy  
453 relating to corrections and coordinate the efforts of the  
454 department with those of the federal government and other state  
455 departments and agencies, county governments, municipal  
456 governments, and private agencies concerned with providing  
457 offender services;

458 (b) To establish standards, in cooperation with other  
459 state agencies having responsibility as provided by law, provide  
460 technical assistance, and exercise the requisite supervision as it  
461 relates to correctional programs over all state-supported adult  
462 correctional facilities and community-based programs;

463 (c) To promulgate and publish such rules, regulations  
464 and policies of the department as are needed for the efficient  
465 government and maintenance of all facilities and programs in  
466 accord insofar as possible with currently accepted standards of  
467 adult offender care and treatment;

468 (d) To provide the Parole Board with suitable and  
469 sufficient office space and support resources and staff necessary  
470 to \* \* \* conduct Parole Board business under the guidance of the  
471 Chairman of the Parole Board;

472 (e) To contract for transitional reentry center beds  
473 that will be used as noncorrections housing for offenders released  
474 from the department on parole, probation or post-release  
475 supervision but do not have appropriate housing available upon  
476 release. At least one hundred (100) but no more than eight



477 hundred (800) transitional reentry center beds contracted by the  
478 department and chosen by the Parole Board shall be available for  
479 the Parole Board to place parolees without appropriate housing;

480 (f) To designate deputy commissioners while performing  
481 their officially assigned duties relating to the custody, control,  
482 transportation, recapture or arrest of any offender within the  
483 jurisdiction of the department or any offender of any jail,  
484 penitentiary, public workhouse or overnight lockup of the state or  
485 any political subdivision thereof not within the jurisdiction of  
486 the department, to the status of peace officers anywhere in the  
487 state in any matter relating to the custody, control,  
488 transportation or recapture of such offender, and shall have the  
489 status of law enforcement officers and peace officers as  
490 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

491 For the purpose of administration and enforcement of this  
492 chapter, deputy commissioners of the Mississippi Department of  
493 Corrections, who are certified by the Mississippi Board on Law  
494 Enforcement Officer Standards and Training, have the powers of a  
495 law enforcement officer of this state. Such powers shall include  
496 to make arrests and to serve and execute search warrants and other  
497 valid legal process anywhere within the State of Mississippi while  
498 performing their officially assigned duties relating to the  
499 custody, control, transportation, recapture or arrest of any  
500 offender within the jurisdiction of the department or any offender  
501 of any jail, penitentiary, public workhouse or overnight lockup of



502 the state or any political subdivision thereof not within the  
503 jurisdiction of the department in any matter relating to the  
504 custody, control, transportation or recapture of such  
505 offender \* \* \*;

506 (g) To make an annual report to the Governor and the  
507 Legislature reflecting the activities of the department and make  
508 recommendations for improvement of the services to be performed by  
509 the department;

510 (h) To cooperate fully with periodic independent  
511 internal investigations of the department and to file the report  
512 with the Governor and the Legislature;

513 (i) To make personnel actions for a period of one (1)  
514 year beginning July 1, 2016, that are exempt from State Personnel  
515 Board rules, regulations and procedures in order to give the  
516 commissioner flexibility in making an orderly, effective and  
517 timely reorganization and realignment of the department; \* \* \*

518 (j) To contract with licensed special care facilities  
519 for paroled inmates to provide authorized medical services and  
520 support services for medically frail inmates who have been paroled  
521 and committed to the custody of such facility; and

522 ( \* \* \*k) To perform such other duties necessary to  
523 effectively and efficiently carry out the purposes of the  
524 department as may be directed by the Governor.

525 **SECTION 6.** Section 47-7-4, Mississippi Code of 1972, is  
526 amended as follows:



527           47-7-4. (1) The commissioner and the medical director of  
528 the department may place an offender who has served not less than  
529 one (1) year of his or her sentence, except an offender convicted  
530 of a sex crime, on conditional medical release. However, a  
531 nonviolent offender who is bedridden may be placed on conditional  
532 medical release regardless of the time served on his or her  
533 sentence. Upon the release of a nonviolent offender who is  
534 bedridden, the state shall not be responsible or liable for any  
535 medical costs that may be incurred if such costs are acquired  
536 after the offender is no longer incarcerated due to his or her  
537 placement on conditional medical release. The commissioner shall  
538 not place an offender on conditional medical release unless the  
539 medical director of the department certifies to the commissioner  
540 that (a) the offender is suffering from a significant permanent  
541 physical medical condition with no possibility of recovery; (b)  
542 that his or her further incarceration will serve no rehabilitative  
543 purposes; and (c) that the state would incur unreasonable expenses  
544 as a result of his or her continued incarceration. Any offender  
545 placed on conditional medical release shall be supervised by the  
546 Division of Community Corrections of the department for the  
547 remainder of his or her sentence. An offender's conditional  
548 medical release may be revoked and the offender returned and  
549 placed in actual custody of the department if the offender  
550 violates an order or condition of his or her conditional medical



551 release. An offender who is no longer bedridden shall be returned  
552 and placed in the actual custody of the department.

553 (2) (a) The State Parole Board may grant a medical parole  
554 and referral to licensed special care facilities for paroled  
555 inmates for an inmate determined to be "medically frail" as  
556 defined in this subsection.

557 (b) For purposes of this subsection (2), the term  
558 "medically frail" means an individual who is a minimal threat to  
559 society as a result of his or her medical condition, whose ability  
560 to perform activities of daily living is significantly impaired,  
561 and who may have limited mobility as the result of one or more of  
562 the following conditions from which the individual is not expected  
563 to recover:

564 (i) A disabling mental disorder, including  
565 dementia, Alzheimer's or a similar degenerative brain disorder;

566 (ii) A serious and complex medical condition; or

567 (iii) A physical disability.

568 (c) The following conditions apply to a parole granted  
569 under this subsection (2):

570 (i) An inmate who has been sentenced to capital  
571 punishment is not eligible;

572 (ii) An inmate who has been convicted as a  
573 criminal sex offender is not eligible;

574 (iii) An inmate does not pose a public safety risk  
575 as determined by the State Parole Board;



576                   (iv) If the prisoner is incapacitated, an  
577 individual legally entitled to agree to the inmate's placement  
578 agrees to the inmate's placement in a licensed special care  
579 facility for paroled inmates or in a medical facility where  
580 medical care and treatment are determined to be appropriate for  
581 the parolee by the State Parole Board;

582                   (v) An inmate shall agree to the release of his or  
583 her medical records that are directly relevant to the condition or  
584 conditions rendering the inmate medically frail to the prosecutor  
585 of the county from which the inmate was committed before the State  
586 Parole Board determines whether or not to grant parole under this  
587 subsection;

588                   (vi) If the inmate is granted parole under this  
589 subsection (2), the inmate shall agree to the quarterly release of  
590 his or her medical records that are directly relevant to the  
591 condition or conditions rendering the inmate medically frail at  
592 the request of the prosecutor of the county from which the inmate  
593 was committed;

594                   (vii) The parolee shall adhere to the terms of his  
595 or her parole for the length of his or her parole term, and the  
596 parole shall be for a term not less than the time necessary to  
597 reach the prisoner's earliest release date;

598                   (viii) A parolee who violates the terms of his or  
599 her parole or is determined not to be eligible for parole under





600 this subsection (2) may be transferred to a setting more  
601 appropriate for the medical needs of the parolee;

602 (ix) The Department of Corrections or the State  
603 Parole Board shall not retain authority over the medical treatment  
604 plan for the inmate granted parole under this subsection (2);

605 (x) The department and the State Parole Board  
606 shall ensure that the placement and terms and conditions of parole  
607 granted under this subsection (2) do not violate any other state  
608 or federal regulations;

609 (xi) A medical facility utilized by the department  
610 to facilitate parole under this subsection (2) shall be operated  
611 in a manner that ensures the safety of the residents of the  
612 facility.

613 (d) The Mississippi Department of Corrections may enter  
614 into contracts to facilitate the placement of paroled inmates  
615 under this subsection (2). The Mississippi Department of  
616 Corrections shall appoint a specialist in the appropriate field of  
617 medicine, who is not employed by the department, to evaluate the  
618 condition of the inmate considered for parole under this  
619 subsection (2) and to report on that condition to the department  
620 and the State Parole Board. The State Parole Board shall  
621 determine whether the inmate is medically frail in consultation  
622 with the Mississippi Department of Health.

623 **SECTION 7.** The following shall be codified as Section  
624 43-13-117.6, Mississippi Code of 1972:



625           43-13-117.6. (1) The Division of Medicaid may apply to the  
626 federal Center for Medicaid Services (CMS) for necessary waivers  
627 to provide federal funding under the Medicaid program for  
628 providing reimbursement for authorized services to medically frail  
629 inmates who qualify for nursing home-level care and who the state  
630 deems are not public safety risks, provided through a Special Care  
631 Facility for Paroled Inmates licensed by the State Department of  
632 Health under contract with the Mississippi Department of  
633 Corrections, as specifically authorized under this act.

634           (2) The program for paroled inmates shall be funded from  
635 monies that are appropriated or otherwise made available to the  
636 division specifically to cover the cost of the paroled inmate  
637 program and shall not be a part of the division's regular  
638 appropriation for the operation of the federal-state Medicaid  
639 program. This program shall be a separate program within the  
640 Division of Medicaid as the administering agent.

641           **SECTION 8.** This act shall take effect and be in force from  
642 and after July 1, 2022.

