MISSISSIPPI LEGISLATURE

REGULAR SESSION 2022

By: Representatives Horan, Reynolds

To: Corrections

HOUSE BILL NO. 936
(As Sent to Governor)

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

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

SECTION 1. The Department of Corrections is authorized to provide for hospice care services for inmates who are confined in facilities under the jurisdiction of the department and who are terminally ill as defined in Section 41-85-3. The department may
have those hospice care services provided by properly qualified
employees of the department or may contract for the providing of
the hospice care services. If the department provides the hospice
care services with department employees, the department is not
required to have a license under the Mississippi Hospice Law.

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

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

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

(3) Services provided by a hospital, nursing home or other
health care facility or health care provider shall not be
considered to constitute a hospice program of care unless such
facility, provider or care giver establishes a freestanding or
distinct hospice unit, staff, facility and services to provide
hospice home care, homelike inpatient hospice care, or outpatient
hospice care under the separate and distinct administrative
authority of a hospice program.
(4) A license for a hospice program shall not be issued if the hospice is to be located in an area in violation of any local zoning ordinances or regulations.

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

SECTION 3. 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 that 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 is organized or operated for profit or not. The term "institution for the aged or infirm" includes nursing homes, pediatric skilled nursing facilities, psychiatric residential treatment facilities, convalescent homes, homes for the aged *, adult foster care facilities *, and special care facilities for paroled inmates, 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, and does not include any

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

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

(h) "Adult foster care facility" means a home setting for vulnerable adults in the community who are unable to live independently due to physical, emotional, developmental or mental impairments, or in need of emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult. Adult foster care programs shall be designed to meet the needs of vulnerable adults with impairments through individual plans of care, which provide a variety of health, social and related support services in a protective setting, enabling participants to live in the community. Adult foster care programs may be (i) traditional, where the foster care provider lives in the residence and is the primary caregiver to clients in the home; (ii) corporate, where the foster care home is operated by a corporation with shift staff delivering services to clients; or (iii) shelter, where the foster care home accepts clients on an emergency short-term basis for up to thirty (30) days.
(i) "Special care facilities for paroled inmates" means long-term care and skilled nursing facilities licensed as special care facilities for medically frail paroled inmates, formed to ease the burden of prison overcrowding and provide compassionate release and medical parole initiatives while impacting economic outcomes for the Mississippi prison system. The facilities shall meet all Mississippi Department of Health and federal Center for Medicaid Services (CMS) requirements and shall be regulated by both agencies; provided, however, such regulations shall not be as restrictive as those required for personal care homes and other institutions devoted primarily to providing medical services. The facilities will offer physical, occupational and speech therapy, nursing services, wound care, a dedicated COVID services unit, individualized patient centered plans of care, social services, spiritual services, physical activities, transportation, medication, durable medical equipment, personalized meal plans by a licensed dietician and security services. There may be up to three (3) facilities located in each Supreme Court district, to be designated by the Chairman of the State Parole Board or his designee.

SECTION 4. 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
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 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 and adult foster care facilities. 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.

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

(* * *6) (a) For the purposes of this subsection (* * *6):

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

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

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

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

However, the health care professional/vocational technical academic program in which the student is enrolled may require the
student to obtain criminal history record checks. In such incidences, paragraph (a)(iii)1 and 2 of this subsection (***6) does not preclude the licensing entity from processing submitted fingerprints of students from healthcare-related professional/vocational technical programs who, as part of their program of study, conduct observations and provide clinical care and services in a covered entity.

(b) Under regulations promulgated by the State Board of Health, the licensing agency shall require to be performed a criminal history record check on (i) every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 1, 2003, and (ii) every employee of a covered entity employed before July 1, 2003, who has a documented disciplinary action by his or her present employer. In addition, the licensing agency shall require the covered entity to perform a disciplinary check with the professional licensing agency of each employee, if any, to determine if any disciplinary action has been taken against the employee by that agency. Except as otherwise provided in paragraph (c) of this subsection (***6), no such employee hired on or after July 1, 2003, shall be permitted to provide direct patient care until the results of the criminal history record check have revealed no disqualifying record or the employee has been granted a waiver. In order to determine the employee applicant's suitability for employment, the applicant shall be fingerprinted. Fingerprints
shall be submitted to the licensing agency from scanning, with the
results processed through the Department of Public Safety's
Criminal Information Center. The fingerprints shall then be
forwarded by the Department of Public Safety to the Federal Bureau
of Investigation for a national criminal history record check.
The licensing agency shall notify the covered entity of the
results of an employee applicant's criminal history record check.
If the criminal history record check discloses a felony
conviction, guilty plea or plea of nolo contendere to a felony of
possession or sale of drugs, murder, manslaughter, armed robbery,
rape, sexual battery, sex offense listed in Section 45-33-23(h),
child abuse, arson, grand larceny, burglary, gratification of lust
or aggravated assault, or felonious abuse and/or battery of a
vulnerable adult that has not been reversed on appeal or for which
a pardon has not been granted, the employee applicant shall not be
eligible to be employed by the covered entity.

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

(d) Under regulations promulgated by the State Board of
Health, the licensing agency shall require every employee of a
covered entity employed before July 1, 2003, to sign an affidavit
stating that he or she has not been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea. No such employee of a covered entity hired before July 1, 2003, shall be permitted to provide direct patient care until the employee has signed the affidavit required by this paragraph (d). All such existing employees of covered entities must sign the affidavit required by this paragraph (d) within six (6) months of the final adoption of the regulations promulgated by the State Board of Health. If a person signs the affidavit required by this paragraph (d), and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed in this paragraph (d) and the conviction or plea has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury. If the offense that the person was convicted of or pleaded guilty or nolo contendere to was a violent offense, the person, upon a conviction of perjury under this paragraph, shall be punished as provided in Section 97-9-61. If the offense that the person was convicted of or pleaded guilty or nolo contendere to was a nonviolent offense,
the person, upon a conviction of perjury under this paragraph, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

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

(f) The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars ($50.00), which covered entity may, in its discretion, charge the
same fee, or a portion thereof, to the employee applicant. Any increase in the fee charged by the licensing agency under this paragraph shall be in accordance with the provisions of Section 41-3-65. Any costs incurred by a covered entity implementing this subsection (**) shall be reimbursed as an allowable cost under Section 43-13-116.

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

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

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

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

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

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

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

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

47-5-28. The commissioner shall have the following powers and duties:
(a) To implement and administer laws and policy relating to corrections and coordinate the efforts of the department with those of the federal government and other state departments and agencies, county governments, municipal governments, and private agencies concerned with providing offender services;

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

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

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

(e) To contract for transitional reentry center beds that will be used as noncorrections housing for offenders released from the department on parole, probation or post-release supervision but do not have appropriate housing available upon release. At least one hundred (100) but no more than eight
hundred (800) transitional reentry center beds contracted by the
department and chosen by the Parole Board shall be available for
the Parole Board to place parolees without appropriate housing;
(f) To designate deputy commissioners while performing
their officially assigned duties relating to the custody, control,
transportation, recapture or arrest of any offender within the
jurisdiction of the department or any offender of any jail,
penitentiary, public workhouse or overnight lockup of the state or
any political subdivision thereof not within the jurisdiction of
the department, to the status of peace officers anywhere in the
state in any matter relating to the custody, control,
transportation or recapture of such offender, and shall have the
status of law enforcement officers and peace officers as
contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

For the purpose of administration and enforcement of this
chapter, deputy commissioners of the Mississippi Department of
Corrections, who are certified by the Mississippi Board on Law
Enforcement Officer Standards and Training, have the powers of a
law enforcement officer of this state. Such powers shall include
to make arrests and to serve and execute search warrants and other
valid legal process anywhere within the State of Mississippi while
performing their officially assigned duties relating to the
custody, control, transportation, recapture or arrest of any
offender within the jurisdiction of the department or any offender
of any jail, penitentiary, public workhouse or overnight lockup of
the state or any political subdivision thereof not within the jurisdiction of the department in any matter relating to the custody, control, transportation or recapture of such offender * * *

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

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

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

(j) To contract with licensed special care facilities for paroled inmates to provide authorized medical services and support services for medically frail inmates who have been paroled and who have voluntarily submitted to the Department of Corrections an address to one (1) of the licensed care facilities to receive such services; and

(* * *) To perform such other duties necessary to effectively and efficiently carry out the purposes of the department as may be directed by the Governor.
SECTION 6. Section 47-7-4, Mississippi Code of 1972, is amended as follows:

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

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

(b) For purposes of this subsection (2), the term "medically frail" means an individual who has a mental or physical medical condition from which he or she, to a reasonable degree of medical certainty, is not expected to recover and as a result cannot perform daily living activities and who is a minimal threat to society as a result of the mental or physical medical condition.

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

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

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

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

(iv) If the prisoner is incapacitated as a result of a mental or physical medical condition as prescribed under paragraph (b) of this subsection, an individual legally entitled
to agree to the inmate's placement agrees to the inmate's placement in a licensed special care facility for paroled inmates or in a medical facility where medical care and treatment are determined to be appropriate for the parolee by the State Parole Board;

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

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

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

(viii) The department or the State Parole Board shall not retain authority over the medical treatment plan for the inmate granted parole under this subsection (2);
(ix) The department and the State Parole Board shall ensure that the placement and terms and conditions of parole granted under this subsection (2) do not violate any other state or federal regulations;

(x) A facility utilized by the department to facilitate parole under this subsection (2) shall be operated in a manner that ensures the safety of the residents of the facility;

(xi) If the inmate recovers from the mental or physical medical condition that rendered the inmate medically frail under this subsection (2), the State Parole Board shall revoke the parole granted under this subsection (2), and the department shall ensure that the inmate returns to incarceration.

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

SECTION 7. The following shall be codified as Section 43-13-117.6, Mississippi Code of 1972:
43-13-117.6. (1) The Division of Medicaid may apply to the federal Center for Medicaid Services (CMS) for necessary waivers to provide federal funding under the Medicaid program for providing reimbursement for authorized services to medically frail inmates who qualify for nursing home-level care and who the state deems are not public safety risks, provided through a Special Care Facility for Paroled Inmates licensed by the State Department of Health under contract with the Mississippi Department of Corrections, as specifically authorized under this act.

(2) Subject to CMS approval, the program for paroled inmates shall be funded from monies that are appropriated or otherwise made available to the division specifically to cover the cost of the paroled inmate program. This program shall be a separate program within the Division of Medicaid as the administering agent.

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