

By: Burton

To: Public Health and
WelfareCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2704

1 AN ACT TO AMEND SECTION 43-11-1, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE TERM "ADULT DAY SERVICES FACILITY" FOR PURPOSES OF
3 INSTITUTIONAL LICENSURE BY THE STATE DEPARTMENT OF HEALTH; TO
4 AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO DIRECT THE
5 STATE BOARD OF HEALTH TO PROMULGATE RULES, REGULATIONS AND
6 STANDARDS REGARDING THE OPERATION OF ADULT DAY SERVICES FACILITIES
7 WHICH INCORPORATE THE MOST CURRENT RANGES AND LEVELS OF CARE
8 DEVELOPED BY THE NATIONAL ADULT DAY SERVICES ASSOCIATION (NADSA);
9 TO CODIFY SECTION 43-11-8, MISSISSIPPI CODE OF 1972, TO PRESCRIBE
10 FEES FOR ADULT DAY CARE FACILITY LICENSURE; AND FOR RELATED
11 PURPOSES.

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

13 SECTION 1. Section 43-11-1, Mississippi Code of 1972, is
14 amended as follows:[MS1]

15 43-11-1. When used in this chapter, the following words
16 shall have the following meaning:

17 (a) "Institutions for the aged or infirm" means a place
18 either governmental or private which provides group living
19 arrangements for four (4) or more persons who are unrelated to the
20 operator and who are being provided food, shelter and personal
21 care whether any such place be organized or operated for profit or
22 not. The term "institution for aged or infirm" includes nursing
23 homes, pediatric skilled nursing facilities, psychiatric
24 residential treatment facilities, convalescent homes, * * * homes
25 for the aged, and adult day services facilities, provided that
26 these institutions fall within the scope of the definitions set
27 forth above. The term "institution for the aged or infirm" does
28 not include hospitals, clinics or mental institutions devoted
29 primarily to providing medical service.

30 (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 24-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) "Adult day services facility" means a community-based group program for adults designed to meet the needs of adults with impairments through individual plans of care, which are structured, comprehensive, planned, nonresidential programs providing a variety of health, social and related support services in a protective setting, enabling participants to live in the community. Exempted from this definition shall be any program licensed and certified by the Mississippi Department of Mental Health and any adult day services program provided to ten (10) or less individuals by a licensed institution for the aged or infirm.

SECTION 2. Section 43-11-13, Mississippi Code of 1972, is amended as follows:[MS2]

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 hereunder as may be designed to further the accomplishment of the purpose of this chapter in promoting adequate care of individuals in such institutions in the interest of public health, safety and welfare. Such 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 said 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 such rules, regulations and standards, the licensing agency shall mail copies thereof to all such institutions in the state which have filed with said 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 nowise affect the validity thereof. Said 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 said institutions.

(2) The licensee shall keep posted in a conspicuous place on the licensed premises all current rules, regulations and minimum standards applicable to fire protection measures as adopted by the licensing agency. The licensee shall furnish to the licensing agency at least once each six (6) months a certificate of approval and inspection by state or local fire authorities. Failure to comply with state laws and/or municipal ordinances and current rules, regulations and minimum standards as adopted by the licensing agency, relative to fire prevention measures, shall be prima facie evidence for revocation of license.

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

(5) The State Board of Health shall promulgate rules and regulations and standards regarding the operation of adult day services facilities which incorporate, but are not limited to, the most current ranges and levels of care developed by the National Adult Day Services Association (NADSA).

SECTION 3. The following provision shall be codified as
Section 43-11-8, Mississippi Code of 1972:[CR3]

43-11-8. (1) An application for a license for an adult day care facility shall be made to the licensing agency upon forms provided by it and shall contain such information as the licensing agency reasonably requires, which may include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed hereunder. Each application for a license for an adult day care facility, shall be accompanied by a license fee of Ten Dollars (\$10.00) for each person of licensed capacity, with a minimum fee per institution of Fifty Dollars (\$50.00), which shall be paid to the licensing agency. Each application for a license for an adult day care facility shall be accompanied by a license fee of Ten Dollars (\$10.00) for each bed in the institution, with a minimum fee per institution of Fifty Dollars (\$50.00), which shall be paid to the licensing agency.

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

(2) A license, unless suspended or revoked, shall be renewable annually upon payment by (a) the licensee of an adult day care facility, except for personal care homes, of a renewal fee of Ten Dollars (\$10.00) for licensed capacity in the institution, with a minimum fee per institution of Fifty Dollars (\$50.00), or (b) the licensee of an adult day care facility of a renewal fee of Ten Dollars (\$10.00) for each licensed facility, with a minimum fee per institution of Fifty Dollars (\$50.00), which shall be paid to the licensing agency, and upon filing by the licensee and approval by the licensing agency of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. Each license shall be issued only for the premises and person or persons or other legal entity or entities named in the application

and shall not be transferable or assignable except with the written approval of the licensing agency. Licenses shall be posted in a conspicuous place on the licensed premises.

(3) A fee known as a "user fee" shall be applicable and shall be paid to the licensing agency as set out in subsection (1) hereof. This user fee shall be assessed for the purpose of the required reviewing and inspections of the proposal of any institution in which there are additions, renovations, modernizations, expansion, alterations, conversions, modifications or replacement of the entire facility involved in such proposal. This fee includes the reviewing of architectural plans in all steps required. There shall be a minimum user fee of Fifty Dollars (\$50.00) and a maximum user fee of Two Thousand Dollars (\$2,000.00).

SECTION 4. This act shall take effect and be in force from and after July 1, 2000.