

By: Burton

To: Public Health and  
Welfare

## 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 AND FOR RELATED PURPOSES.

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

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

13 43-11-1. When used in this chapter, the following words  
14 shall have the following meaning:

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

28 (b) "Person" means any individual, firm, partnership,  
29 corporation, company, association or joint stock association, or

30 any licensee herein or the legal successor thereof.

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

36 (d) "Psychiatric residential treatment facility" means  
37 any nonhospital establishment with permanent facilities which  
38 provides a 24-hour program of care by qualified therapists  
39 including, but not limited to, duly licensed mental health  
40 professionals, psychiatrists, psychologists, psychotherapists and  
41 licensed certified social workers, for emotionally disturbed  
42 children and adolescents referred to such facility by a court,  
43 local school district or by the Department of Human Services, who  
44 are not in an acute phase of illness requiring the services of a  
45 psychiatric hospital, and are in need of such restorative  
46 treatment services. For purposes of this paragraph, the term  
47 "emotionally disturbed" means a condition exhibiting one or more  
48 of the following characteristics over a long period of time and to  
49 a marked degree, which adversely affects educational performance:

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

52 2. An inability to build or maintain satisfactory  
53 relationships with peers and teachers;

54 3. Inappropriate types of behavior or feelings  
55 under normal circumstances;

56 4. A general pervasive mood of unhappiness or  
57 depression; or

58 5. A tendency to develop physical symptoms or  
59 fears associated with personal or school problems. An  
60 establishment furnishing primarily domiciliary care is not within  
61 this definition.

62 (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.

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

96 this purpose, but the failure to mail the same or the failure of  
97 the institutions to receive the same shall in nowise affect the  
98 validity thereof. Said rules, regulations and standards may be  
99 amended by the licensing agency from time to time as necessary to  
100 promote the health, safety and welfare of persons living in said  
101 institutions.

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

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

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

125 SECTION 3. This act shall take effect and be in force from  
126 and after July 1, 2000.