

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 981

1 AN ACT TO CREATE NEW SECTION 43-11-16, MISSISSIPPI CODE OF
 2 1972, TO DIRECT THE STATE DEPARTMENT OF HEALTH TO REQUIRE ALL
 3 LICENSED NURSING HOMES TO CONDUCT CRIMINAL HISTORY CHECKS ON ALL
 4 NEW EMPLOYEES WHO PROVIDE DIRECT PATIENT CARE OR SERVICES; TO
 5 PROVIDE CIVIL IMMUNITY FOR THE DEPARTMENT, NURSING HOMES AND THEIR
 6 AGENTS AND EMPLOYEES FOR ANY FINDINGS, RECOMMENDATIONS OR ACTIONS
 7 TAKEN PURSUANT TO THIS ACT; TO AUTHORIZE THE DEPARTMENT TO CHARGE
 8 NURSING FACILITIES A FEE FOR THE CRIMINAL HISTORY CHECKS; TO AMEND
 9 SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 10 DEPARTMENT TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THIS
 11 ACT; AND FOR RELATED PURPOSES.

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

13 SECTION 1. The following shall be codified as Section
 14 43-11-16, Mississippi Code of 1972:

15 43-11-16. (1) Under regulations promulgated by the
 16 licensing agency, all licensed nursing homes shall conduct a
 17 criminal history check on every new employee who provides direct
 18 patient care or services. Except as otherwise provided, no new
 19 employee shall be permitted to provide direct patient care or
 20 services until the results of the criminal history check have
 21 revealed no disqualifying record. Every new employee shall
 22 provide a valid current social security number and/or driver's
 23 license number, which shall be furnished to the licensing agency
 24 or to the agency or entity designated by the licensing agency to
 25 conduct the criminal history check. The nursing home applying for
 26 the criminal history check will be promptly notified of any
 27 disqualifying record found by the criminal history check.

28 (2) A licensed nursing home may make an offer of temporary
 29 employment to a prospective employee pending the results of a
 30 criminal history check on the person. In those instances, the

31 licensed nursing home shall provide to the licensing agency the
32 name and relevant information relating to the person within
33 seventy-two (72) hours after the date the person accepts temporary
34 employment.

35 (3) The licensing agency and its agents, officers, employees,
36 attorneys and representatives, and the licensed nursing
37 facilities, their agents, officers, employees, attorneys and
38 representatives, shall not be held civilly liable for any
39 findings, recommendations or actions taken pursuant to this
40 section.

41 (4) All fees incurred in compliance with this section shall
42 be borne by the nursing home requesting the criminal history
43 check. The licensing agency may charge a fee, which shall include
44 the amount required by the Mississippi Department of Public
45 Safety, the Federal Bureau of Investigation for the national
46 criminal history check, or an other agency or entity designated by
47 the licensing agency for the record check, in addition to any
48 necessary costs incurred by the licensing agency for the handling
49 and administration of the criminal history checks. Costs incurred
50 by a nursing home provider implementing this section shall be
51 reimbursed as an allowable cost under Section 43-13-116.

52 SECTION 2. Section 43-11-13, Mississippi Code of 1972, is
53 amended as follows:

54 43-11-13. (1) The licensing agency shall adopt, amend,
55 promulgate and enforce such rules, regulations and standards,
56 including classifications, with respect to all institutions for
57 the aged or infirm to be licensed under this chapter as may be
58 designed to further the accomplishment of the purpose of this
59 chapter in promoting adequate care of individuals in such
60 institutions in the interest of public health, safety and welfare.
61 Such rules, regulations and standards shall be adopted and
62 promulgated by the licensing agency and shall be recorded and
63 indexed in a book to be maintained by the licensing agency in its

64 main office in the State of Mississippi, entitled "Rules,
65 Regulations and Minimum Standards for Institutions for the Aged or
66 Infirm" and the book shall be open and available to all
67 institutions for the aged or infirm and the public generally at
68 all reasonable times. Upon the adoption of such rules,
69 regulations and standards, the licensing agency shall mail copies
70 thereof to all such institutions in the state which have filed
71 with the agency their names and addresses for this purpose, but
72 the failure to mail the same or the failure of the institutions to
73 receive the same shall in no way affect the validity thereof. The
74 rules, regulations and standards may be amended by the licensing
75 agency from time to time as necessary to promote the health,
76 safety and welfare of persons living in those institutions.

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

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

95 (4) The licensing agency shall promulgate rules and
96 regulations to implement Section 43-11-16.

97 SECTION 3. This act shall take effect and be in force from
98 and after July 1, 2001.