

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2191**

**By Representative(s) Committee**

**Amend by striking all after the enacting clause and inserting in lieu thereof the following:**

15           **SECTION 1.** Section 43-11-13, Mississippi Code of 1972, is  
16 amended as follows:  
17           43-11-13. (1) The licensing agency shall adopt, amend,  
18 promulgate and enforce such rules, regulations and standards,  
19 including classifications, with respect to all institutions for  
20 the aged or infirm to be licensed under this chapter as may be  
21 designed to further the accomplishment of the purpose of this  
22 chapter in promoting adequate care of individuals in those  
23 institutions in the interest of public health, safety and welfare.  
24    Those rules, regulations and standards shall be adopted and  
25 promulgated by the licensing agency and shall be recorded and  
26 indexed in a book to be maintained by the licensing agency in its  
27 main office in the State of Mississippi, entitled "Rules,  
28 Regulations and Minimum Standards for Institutions for the Aged or  
29 Infirm" and the book shall be open and available to all  
30 institutions for the aged or infirm and the public generally at  
31 all reasonable times. Upon the adoption of those rules,  
32 regulations and standards, the licensing agency shall mail copies  
33 thereof to all those institutions in the state that have filed  
34 with the agency their names and addresses for this purpose, but

35 the failure to mail the same or the failure of the institutions to  
36 receive the same shall in no way affect the validity thereof. The  
37 rules, regulations and standards may be amended by the licensing  
38 agency, from time to time, as necessary to promote the health,  
39 safety and welfare of persons living in those institutions.

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

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

58 (4) (a) Notwithstanding any determination by the licensing  
59 agency that skilled nursing services would be appropriate for a  
60 resident of a personal care home, that resident, the resident's  
61 guardian or the legally recognized responsible party for the  
62 resident may consent in writing for the resident to continue to  
63 reside in the personal care home, if approved in writing by a  
64 licensed physician. \* \* \* However, \* \* \* no personal care home  
65 shall allow more than two (2) residents, or ten percent (10%) of  
66 the total number of residents in the facility, whichever is  
67 greater, to remain in the personal care home under the provisions  
68 of this subsection (4). This consent shall be deemed to be  
69 appropriately informed consent as described in the regulations

70 promulgated by the licensing agency. After that written consent  
71 has been obtained, the resident shall have the right to continue  
72 to reside in the personal care home for as long as the resident  
73 meets the other conditions for residing in the personal care home.

74 A copy of the written consent and the physician's approval shall  
75 be forwarded by the personal care home to the licensing agency.

76 (b) The State Board of Health shall promulgate rules  
77 and regulations restricting the handling of a resident's personal  
78 deposits by the director of a personal care home. Any funds given  
79 or provided for the purpose of supplying extra comforts,  
80 conveniences or services to any resident in any personal care  
81 home, and any funds otherwise received and held from, for or on  
82 behalf of any such resident, shall be deposited by the director or  
83 other proper officer of the personal care home to the credit of  
84 that resident in an account that shall be known as the Resident's  
85 Personal Deposit Fund. No more than one (1) month's charge for  
86 the care, support, maintenance and medical attention of the  
87 resident shall be applied from the account at any one time. After  
88 the death, discharge or transfer of any resident for whose benefit  
89 any such fund has been provided, any unexpended balance remaining  
90 in his personal deposit fund shall be applied for the payment of  
91 care, cost of support, maintenance and medical attention that is  
92 accrued. If any unexpended balance remains in that resident's  
93 personal deposit fund after complete reimbursement has been made  
94 for payment of care, support, maintenance and medical attention,  
95 and the director or other proper officer of the personal care home  
96 has been or shall be unable to locate the person or persons  
97 entitled to the unexpended balance, the director or other proper  
98 officer may, after the lapse of one (1) year from the date of that  
99 death, discharge or transfer, deposit the unexpended balance to  
100 the credit of the personal care home's operating fund.

101 (c) The State Board of Health shall promulgate rules  
102 and regulations requiring personal care homes to maintain records  
103 relating to health condition, medicine dispensed and administered,  
104 and any reaction to that medicine. The director of the personal

105 care home shall be responsible for explaining the availability of  
106 those records to the family of the resident at any time upon  
107 reasonable request.

108 (d) The State Board of Health shall evaluate the  
109 effects of this section as it promotes adequate care of  
110 individuals in personal care homes in the interest of public  
111 health, safety and welfare. It shall report its findings to the  
112 Chairmen of the Public Health and Welfare Committees of the House  
113 and Senate by January 1, 2003. This subsection (4) shall stand  
114 repealed June 30, 2003.

115 (5) (a) For the purposes of this subsection, the term  
116 "licensed entity" means a hospital, nursing home, personal care  
117 home, home health agency or hospice. For the purposes of this  
118 subsection, the term "employee" means any person employed by a  
119 licensed entity either directly, or if on a contractual basis,  
120 those persons that provide direct patient care to the persons  
121 being served by the licensed entity.

122 (b) Under regulations promulgated by the State Board of  
123 Health, the licensing agency shall require \* \* \* every \* \* \*  
124 employee of a licensed entity to sign an affidavit stating that he  
125 or she has not been convicted of or pleaded guilty or nolo  
126 contendere to a felony of possession or sale of drugs, murder,  
127 manslaughter, armed robbery, rape, sexual battery, any sex offense  
128 listed in Section 45-33-23(f), child abuse, arson, grand larceny,  
129 burglary, gratification of lust, aggravated assault, or felonious  
130 abuse and/or battery of a vulnerable adult, or that any such  
131 conviction or plea was reversed on appeal or a pardon was granted  
132 for the conviction or plea. No \* \* \* new employee of a licensed  
133 entity hired on or after July 1, 2002, shall be permitted to  
134 provide direct patient care \* \* \* until the employee has signed  
135 the affidavit required by this paragraph. All existing employees  
136 of licensed entities must sign the affidavit required by this  
137 paragraph on or before December 31, 2002.

138 (c) If a person has been convicted of or pleaded guilty  
139 or nolo contendere to any of the offenses listed in paragraph (b)

140 of this subsection and the conviction or plea has not been  
141 reversed on appeal or a pardon has not been granted for the  
142 conviction or plea, the person shall not be employed at a licensed  
143 entity. If a person signs the affidavit required by paragraph (b)  
144 of this subsection, and it is later determined that the person  
145 actually had been convicted of or pleaded guilty or nolo  
146 contendere to any of the offenses listed in paragraph (b) of this  
147 subsection and the conviction or plea has not been reversed on  
148 appeal or a pardon has not been granted for the conviction or  
149 plea, the person is guilty of perjury and, upon conviction  
150 therefor, shall be punished as provided in Section 97-9-61.

151 \* \* \*

152 (d) The licensing agency, the licensed entity, and  
153 their agents, officers, employees, attorneys and representatives,  
154 shall be presumed to be acting in good faith for any employment  
155 decision or action taken under \* \* \* this subsection. The  
156 presumption of good faith may be overcome by a preponderance of  
157 the evidence in any civil action. No licensing agency, licensed  
158 entity, nor their agents, officers, employees, attorneys and  
159 representatives shall be held liable in any employment  
160 discrimination suit in which an allegation of discrimination is  
161 made regarding an employment decision authorized under this  
162 section.

163 (e) The licensing agency shall promulgate regulations  
164 to implement this subsection (5).

165 **SECTION 2.** This act shall take effect and be in force from  
166 and after July 1, 2002.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE CURRENT AND NEW EMPLOYEES AT LICENSED HEALTH CARE  
3 FACILITIES TO SIGN AN AFFIDAVIT STATING THAT THEY HAVE NOT BEEN  
4 CONVICTED OF OR PLEADED GUILTY TO CERTAIN SPECIFIED CRIMINAL  
5 OFFENSES; TO PROVIDE THAT IF A PERSON HAS BEEN CONVICTED OF OR  
6 PLEADED GUILTY TO ANY OF THE SPECIFIED OFFENSES, THE PERSON SHALL  
7 NOT BE EMPLOYED AT A HEALTH CARE FACILITY; TO PROVIDE THAT IF A  
8 PERSON SIGNS THE AFFIDAVIT AND IT IS LATER DETERMINED THAT THE  
9 PERSON ACTUALLY HAD BEEN CONVICTED OF OR PLEADED GUILTY TO ANY OF  
10 THE SPECIFIED OFFENSES, THE PERSON IS GUILTY OF PERJURY AND SHALL

11 BE PUNISHED AS PROVIDED BY LAW; TO PROVIDE CIVIL IMMUNITY TO  
12 HEALTH CARE FACILITIES FOR MAKING EMPLOYMENT DECISIONS ALLOWED BY  
13 THIS ACT; AND FOR RELATED PURPOSES.