

By: Senator(s) Norwood, Brumfield, Butler,
Simmons (13th)

To: Public Health and
Welfare

SENATE BILL NO. 2328

1 AN ACT TO AMEND SECTION 43-11-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT PERSONAL CARE HOMES MUST BE LICENSED AND REGULATED BY
3 THE STATE DEPARTMENT OF HEALTH IF THEY PROVIDE INDIVIDUAL OR GROUP
4 LIVING ARRANGEMENTS FOR ONE OR MORE PERSONS WHO ARE UNRELATED TO
5 THE OPERATOR; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-11-1, Mississippi Code of 1972, is
8 amended as follows:

9 43-11-1. When used in this chapter, the following words
10 shall have the following meaning:

11 (a) "Institutions for the aged or infirm" means a place
12 either governmental or private that provides group living
13 arrangements for four (4) or more persons who are unrelated to the
14 operator and who are being provided food, shelter and personal
15 care, whether any such place is organized or operated for profit
16 or not. The term "institution for the aged or infirm" includes
17 nursing homes, pediatric skilled nursing facilities, psychiatric
18 residential treatment facilities, personal care homes,
19 convalescent homes, homes for the aged, adult foster care



20 facilities and special care facilities for paroled inmates,
21 provided that these institutions fall within the scope of the
22 definitions set forth * * * in this section. The term
23 "institution for the aged or infirm" does not include hospitals,
24 clinics or mental institutions devoted primarily to providing
25 medical service, and does not include any private residence in
26 which the owner of the residence is providing personal care
27 services to disabled or homeless veterans under an agreement with,
28 and in compliance with the standards prescribed by, the United
29 States Department of Veterans Affairs, if the owner of the
30 residence also provided personal care services to disabled or
31 homeless veterans at any time during calendar year 2008.

32 (b) "Person" means any individual, firm, partnership,
33 corporation, company, association or joint-stock association, or
34 any licensee herein or the legal successor thereof.

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

40 (d) "Personal care home" means a place either
41 governmental or private individual or group living arrangements
42 for one or more persons who are unrelated to the operator and who
43 are being provided food, shelter and personal care, whether any
44 such place is organized or operated for profit or not and whether



45 the place is for assisted living or residential living. Personal
46 care homes shall be subject to routine inspections by the
47 licensing agency to protect the health and safety of the
48 residents.

49 (e) "Psychiatric residential treatment facility" means
50 any nonhospital establishment with permanent facilities which
51 provides a twenty-four-hour program of care by qualified
52 therapists, including, but not limited to, duly licensed mental
53 health professionals, psychiatrists, psychologists,
54 psychotherapists and licensed certified social workers, for
55 emotionally disturbed children and adolescents referred to such
56 facility by a court, local school district or by the Department of
57 Human Services, who are not in an acute phase of illness requiring
58 the services of a psychiatric hospital, and are in need of such
59 restorative treatment services. For purposes of this paragraph,
60 the term "emotionally disturbed" means a condition exhibiting one
61 or more of the following characteristics over a long period of
62 time and to a marked degree, which adversely affects educational
63 performance:

64 * * *(i) An inability to learn which cannot be
65 explained by intellectual, sensory or health factors;

66 * * *(ii) An inability to build or maintain
67 satisfactory relationships with peers and teachers;

68 * * *(iii) Inappropriate types of behavior or
69 feelings under normal circumstances;



70 * * * (iv) A general pervasive mood of unhappiness
71 or depression; or

72 * * * (v) A tendency to develop physical symptoms
73 or fears associated with personal or school problems. An
74 establishment furnishing primarily domiciliary care is not within
75 this definition.

76 (* * * f) "Pediatric skilled nursing facility" means an
77 institution or a distinct part of an institution that is primarily
78 engaged in providing to inpatients skilled nursing care and
79 related services for persons under twenty-one (21) years of age
80 who require medical or nursing care or rehabilitation services for
81 the rehabilitation of injured, disabled or sick persons.

82 (* * * g) "Licensing agency" means the State Department
83 of Health.

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

91 (* * * i) "Adult foster care facility" means a home
92 setting for vulnerable adults in the community who are unable to
93 live independently due to physical, emotional, developmental or
94 mental impairments, or in need of emergency and continuing



95 protective social services for purposes of preventing further
96 abuse or neglect and for safeguarding and enhancing the welfare of
97 the abused or neglected vulnerable adult. Adult foster care
98 programs shall be designed to meet the needs of vulnerable adults
99 with impairments through individual plans of care, which provide a
100 variety of health, social and related support services in a
101 protective setting, enabling participants to live in the
102 community. Adult foster care programs may be (i) traditional,
103 where the foster care provider lives in the residence and is the
104 primary caregiver to clients in the home; (ii) corporate, where
105 the foster care home is operated by a corporation with shift staff
106 delivering services to clients; or (iii) shelter, where the foster
107 care home accepts clients on an emergency short-term basis for up
108 to thirty (30) days.

109 (* * *j) "Special care facilities for paroled inmates"
110 means long-term care and skilled nursing facilities licensed as
111 special care facilities for medically frail paroled inmates,
112 formed to ease the burden of prison overcrowding and provide
113 compassionate release and medical parole initiatives while
114 impacting economic outcomes for the Mississippi prison system.
115 The facilities shall meet all Mississippi Department of Health and
116 federal Center for Medicaid Services (CMS) requirements and shall
117 be regulated by both agencies; provided, however, such regulations
118 shall not be as restrictive as those required for personal care
119 homes and other institutions devoted primarily to providing



120 medical services. The facilities will offer physical,
121 occupational and speech therapy, nursing services, wound care, a
122 dedicated COVID services unit, individualized patient centered
123 plans of care, social services, spiritual services, physical
124 activities, transportation, medication, durable medical equipment,
125 personalized meal plans by a licensed dietician and security
126 services. There may be up to three (3) facilities located in each
127 Supreme Court district, to be designated by the Chairman of the
128 State Parole Board or his designee.

129 **SECTION 2.** This act shall take effect and be in force from
130 and after July 1, 2024.

