MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Norwood

To: Public Health and Welfare

SENATE BILL NO. 2749

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

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

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

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

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

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

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

living. Personal care homes shall be subject to routine inspections by the licensing agency to protect the health and safety of the residents.

(* * *e) "Psychiatric residential treatment facility" means any nonhospital establishment with permanent facilities which provides a twenty-four-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:

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

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

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

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

*** * ***(v) 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.

(*** * ***f) "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.

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

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

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

protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult. Adult foster care programs shall be designed to meet the needs of vulnerable adults with impairments through individual plans of care, which provide a variety of health, social and related support services in a protective setting, enabling participants to live in the community. Adult foster care programs may be:

(i) Traditional, where the foster care provider lives in the residence and is the primary caregiver to clients in the home;

(ii) Corporate, where the foster care home is operated by a corporation with shift staff delivering services to clients; or

(iii) Shelter, where the foster care home accepts clients on an emergency short-term basis for up to thirty (30) days.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.