PART III THE LICENSE

104 THE LICENSE

104.01 License. A license shall be issued to each facility that meets the requirements as set forth in these regulations.

105 APPLICATION FOR LICENSE

105.03 Name of Institution. Every facility or infirm shall be designated by a permanent and distinctive name which shall be used in applying for a license and shall not be changed without first notifying the licensing agency in writing and receiving written approval of the change from the licensing agency. Such notice shall specify the name to be discontinued as well as the new name proposed. The words "hospital", "sanatarium", "sanatorium", "clinic" or any other word which would reflect a different type of facility shall not appear in the title of a facility. Only the official name by which the facility is licensed shall be used in telephone listings, stationery, advertising, etc. Two or more facilities shall not be licensed under a similar name.

106 LICENSING

106.02 Separate License. Separate license shall be required for institutions maintained on separate premises even though under the same management. However, separate license are not required for buildings on the same grounds which are under the same management.

106.03 Posting of License. The license shall be posted in a conspicuous place on the license premises and shall be available for review by an interested person.

PART IV ADMINISTRATION

109 THE AUTHORITY FOR ADMINISTRATION FOR INSTITUTION FOR THE AGED OR INFIRM

109.01 Responsibility. The governing authority, the owner, or the person(s) designated by the governing authority or the owner shall be the supreme authority in a facility responsible for the management, control, and operation of the institution including the appointment of a qualified staff.

109.02 Organization. Each facility should establish a written organizational plan, which may be an organizational chart that clearly establishes a line of authority, responsibilities, and relationships. Written personnel policies and job descriptions shall be prepared and given to each employee.

109.03 Relationship of staff to Governing Authority. The administrator, personnel, and all auxiliary organizations shall be directly or indirectly responsible to the governing authority.

110 THE LICENSEE

110.01 Responsibility. The licensee shall be the person who the licensing agency will hold responsible for the operation of the home in compliance with these regulations. The licensee may serve as the administrator or may appoint someone to be the administrator. The licensee shall be
responsible for submitting to the licensing agency the plans and specifications for the building, the
applications for license, and such reports as are required.

1. Initial Application. The licensee shall submit the following with his initial application:

a. References in regard to this character, temperament, and experience background from three (3)
responsible persons not related to him. The licensing agency reserves the right to make
investigations from its own source regarding the character of the applicant.

b. Whether the governing body will be a private proprietary, partnership, corporation,
governmental, or other (non-profit, church, etc.). If a partnership, the full name and address of each
partner. If a corporation or other, the name, address, and title of each officer. If governmental, the
unit of government.

111 ADMINISTRATOR

111.01 Responsibility. There shall be a licensed administrator with authority and responsibility for
the operation of the facility in all its administrative and professional functions subject only to the
policies enacted by the governing authority and to such orders as it may issue. The administrator
shall be the direct representative of the governing authority in the management of the facility and
shall be responsible to said governing authority for the proper performance of duties. There shall
be a qualified individual present in the facility responsible to the administrator in matters of
administration who shall represent him during the absence. The persons shall not be a resident of
the facility.

112 FINANCIAL

112.01 Accounting. Accounting methods and procedures should be carried out in accordance with a
recognized system of good business practice. The method and procedure used should be sufficient
to permit annual audit, accurate determination of the cost of operation and the cost per resident
per day.

112.02 Financial Structure. All facilities shall have a financial plan which guarantees sufficient
resources to meet operating cost at all times and to maintain standards required by these
regulations.

115 RECORDS AND REPORTS

115.01 General. Each facility shall submit such records and reports as the licensing agency may
request.

115.02 Annual Report. An annual report shall be submitted to the licensing agency by each facility
upon such uniform dates and shall contain such information in such form as the licensing agency
prescribes.

115.03 Criminal History Record Checks.

1. Pursuant to Section 43-11-13, Mississippi Code of 1972, the covered entity shall require to be
preformed a disciplinary check with the professional licensing agency, if any, for each employee to
determine if any disciplinary action has been taken against the employee by the agency, and a
criminal history record check on:
a. Every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 01, 2003, and

b. Every employee of a covered entity employed prior to July 01, 2003, who has documented disciplinary action by his or her present employer.

2. Except as otherwise provided in this paragraph, no employee hired on or after July 01, 2003, shall be permitted to provide direct patient care until the results of the criminal history record check revealed no disqualifying record or the employee has been granted a waiver. Provided the covered entity has documented evidence of submission of fingerprints for the background check, any person may be employed and provide direct patient care on a temporary basis pending the results of the criminal history record check but any employment offer, contract, or arrangement with the person shall be voidable, if he/she receives a disqualifying criminal record check and no waiver is granted.

3. If such criminal history record check discloses a felony conviction; a guilty plea; and/or a plea of nolo contendere to a felony for one (1) or more of the following crimes which has not been reversed on appeal, or for which a pardon has not been granted, the applicant/employee shall not be eligible to be employed at the licensed facility:

a. possession or sale of drugs
b. murder
c. manslaughter
d. armed robbery
e. rape
f. sexual battery
g. sex offense listed in Section 45-33-23(g), Mississippi Code of 1972
h. child abuse
i. arson
j. grand larceny
k. burglary
l. gratification of lust
m. aggravated assault
n. felonious abuse and/or battery of vulnerable adult

4. Documentation of verification of the employee’s disciplinary status, if any, with the employee’s professional licensing agency as applicable, and evidence of submission of the employee’s fingerprints to the licensing agency must be on file and maintained by the facility prior to the new employee’s first date of employment. The covered entity shall maintain on file evidence of verification of the employee’s disciplinary status from any applicable professional licensing agency and of submission and/or completion of the criminal record check, the signed affidavit, if applicable, and/or a copy of the referenced notarized letter addressing the individual’s suitability for such employment.

5. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency shall require every employee of a covered entity employed prior to July 01, 2003, to sign an affidavit stating that he or she does not have a criminal history as outlined in paragraph (3) above.

6. From and after December 31, 2003, no employee of a covered entity hired before July 01, 2003, shall be permitted to provide direct patient care unless the employee has signed an affidavit as required by this section. The covered entity shall place the affidavit in the employee’s personnel file as proof of compliance with this section.
7. If a person signs the affidavit required by this section, and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed herein, and the conviction or pleas has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury as set out in Section 43-11-13, Mississippi Code of 1972. The covered entity shall immediately institute termination proceedings against the employee pursuant to the facility’s policies and procedures.

8. The covered entity may, in its discretion, allow any employee unable to sign the affidavit required by paragraph (7) of this subsection or any employee applicant aggrieved by the employment decision under this subsection to appear before the covered entity’s hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the employee or employee applicant to be employed at the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (1) age at which the crime was committed; (2) circumstances surrounding the crime; (3) length of time since the conviction and criminal history since the conviction; (4) work history; (5) current employment and character references; and (6) other evidence demonstrating the ability of the individual does not pose a threat to the health or safety of the patients in the licensed facility.

9. The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars ($50.00).

10. Should results of an employee applicant’s criminal history record check reveal no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant’s suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity licensed by the Mississippi Department of Health without the necessity of an additional criminal record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant’s criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history check as required in this subsection.

11. For individuals contacted through a third party who provide direct patient care as defined herein, the covered entity shall require proof of a criminal history record check.

12. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency, the covered entity, and their agents, officer, employees, attorneys, and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

101 DEFINITIONS

101.05 Criminal History Record Checks.

Employee. For the purpose of fingerprinting and criminal background history checks, employee shall mean any individual employed by a covered entity. The term employee”, also includes any individual who by contract with the covered entity provides direct patient care in a patient’s,
A resident’s, or client’s room or in treatment rooms. The term “employee” does not include healthcare professional/technical students, as defined in Section 37-29-232, performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied health course taught in the school if:

a. The student is under the supervision of a licensed healthcare provider; and

b. The student has signed the affidavit that is on file at the student’s school stating that he or she has not been convicted of or plead guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offenses listed in section 45-33-23 (g), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.

c. Further, applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41 are exempt from application of the term employee under Section 43-11 13.

124 MEDICAL RECORDS SERVICES

9. A resident index, including the resident’s full name and birth date, shall be maintained.

CHAPTER 50 MINIMUM STANDARDS OF OPERATION FOR ALZHEIMER’S DISEASE/DEMENTIA CARE UNIT

PART I GENERAL ALZHEIMER’S DISEASE/DEMENTIA CARE UNIT

100 DEFINITIONS

100.02 Alzheimer’s Disease/Dementia Care Unit (A/D Unit). A licensed nursing home or licensed personal care home (hereinafter referred to as “licensed facility” unless specified otherwise) may establish a separate A/D Unit for residents suffering from a form of dementia or Alzheimer’s Disease. The rules and regulations as set forth in these regulations are in addition to the licensure requirements for the licensed facility, and do not exempt a licensed facility from compliance therewith.

100.03 Alzheimer’s Disease/Dementia Care Unit Designation. Any licensed facility that establishes an A/D Unit, and meets the requirements as set forth in this chapter, shall have said designation printed upon the certificate of licensure issued to said facility by the licensing agency. In order for an A/D Unit to receive designation, the facility must have also received licensure from the licensing agency as a nursing home or as a personal care home.