

By: Representatives Holland, Scott

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 908
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE BOARD OF MENTAL HEALTH TO EXECUTE LEASES WITH
3 PRIVATE ENTITIES; TO DEDICATE THE FUNDS DERIVED FROM THOSE LEASES
4 TO THE EXCLUSIVE USE OF THE DEPARTMENT OF MENTAL HEALTH; TO
5 AUTHORIZE THE STATE BOARD OF MENTAL HEALTH TO PURCHASE
6 PROFESSIONAL LIABILITY INSURANCE FOR PHYSICIANS, DENTISTS AND
7 NURSE PRACTITIONERS EMPLOYED BY THE DEPARTMENT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 41-4-7, Mississippi Code of 1972, is
11 amended as follows:

12 41-4-7. The State Board of Mental Health shall have the
13 following powers and duties:

14 (a) To appoint a full-time Executive Director of the
15 Department of Mental Health, who shall be employed by the board
16 and shall serve as executive secretary to the board. The first
17 director shall be a duly licensed physician with special interest
18 and competence in psychiatry, and shall possess a minimum of three
19 (3) years' experience in clinical and administrative psychiatry.
20 Subsequent directors shall possess at least a master's degree or
21 its equivalent, and shall possess at least ten (10) years'
22 administrative experience in the field of mental health. The
23 salary of the executive director shall be determined by the board;

24 (b) To set up state plans for the purpose of
25 controlling and treating any and all forms of mental and emotional
26 illness, alcoholism, drug misuse and developmental disabilities;

27 (c) To supervise, coordinate and establish standards
28 for all operations and activities of the state related to mental
29 health and providing mental health services, including, but not
30 limited to: the requirement that no person be approved for

31 treatment which is paid for by funds made available through the
32 department who has not had a treatment plan established as a
33 result of having been seen by a licensed physician or licensed
34 clinical psychologist and that physician or clinical psychologist
35 signing these plans stating that he/she has personally evaluated
36 the client and that the treatment plan is medically necessary. A
37 physician or clinical psychologist shall recertify each client's
38 record at least semiannually (except for persons with a diagnosis
39 of mental retardation/developmental disability which shall be
40 completed annually), and more often if medically indicated by
41 physically visiting the client and certifying same in the record.
42 The board shall have the authority to develop and implement all
43 standards and plans and shall have the authority to establish
44 appropriate actions, including financially punitive actions, to
45 insure enforcement of these established standards, in accordance
46 with the Administrative Procedures Law (Section 25-43-1 et seq.);

47 (d) To enter into contracts with any other state or
48 federal agency, or with any private person, organization or group
49 capable of contracting, if it finds such action to be in the
50 public interest;

51 (e) To collect reasonable fees for its services;
52 provided, however, if it is determined that a person receiving
53 services is unable to pay the total fee, the department shall
54 collect any amount such person is able to pay;

55 (f) To certify, coordinate and establish minimum
56 standards and establish minimum required services for regional
57 mental health and mental retardation commissions and other
58 community service providers for community or regional programs and
59 services in mental health, mental retardation, alcoholism, drug
60 misuse, developmental disabilities, compulsive gambling, addictive
61 disorders and related programs throughout the state. Such
62 regional mental health and mental retardation commissions and
63 other community service providers shall submit an annual

64 operational plan to the State Department of Mental Health for
65 approval or disapproval based on the minimum standards and minimum
66 required services established by the department for certification.
67 If the department finds deficiencies in the plan of any regional
68 commission or community service provider based on the minimum
69 standards and minimum required services established for
70 certification, the department shall give the regional commission
71 or community service provider a six-month probationary period to
72 bring its standards and services up to the established minimum
73 standards and minimum required services. After the six-month
74 probationary period, if the department determines that the
75 regional commission or community service provider still does not
76 meet the minimum standards and minimum required services
77 established for certification, the department may remove the
78 certification of the commission or provider. However, the
79 department shall not mandate a standard or service, or decertify a
80 regional commission or community service provider for not meeting
81 a standard or service, if the standard or service does not have
82 funding appropriated by the Legislature or have a funding source
83 from the State Department of Mental Health or a local funding
84 source. The State Board of Mental Health shall promulgate rules
85 and regulations necessary to implement the provisions of this
86 paragraph (f), in accordance with the Administrative Procedures
87 Law (Section 25-43-1 et seq.);

88 (g) To establish and promulgate reasonable minimum
89 standards for the construction and operation of state and all
90 Department of Mental Health certified facilities, including
91 reasonable minimum standards for the admission, diagnosis, care,
92 treatment, transfer of patients and their records, and also
93 including reasonable minimum standards for providing day care,
94 outpatient care, emergency care, inpatient care and follow-up
95 care, when such care is provided for persons with mental or

96 emotional illness, mental retardation, alcoholism, drug misuse and
97 developmental disabilities;

98 (h) To assist community or regional programs consistent
99 with the purposes of this chapter by making grants and contracts
100 from available funds;

101 (i) To establish and collect reasonable fees for
102 necessary inspection services incidental to certification or
103 compliance;

104 (j) To accept gifts, trusts, bequests, grants,
105 endowments or transfers of property of any kind;

106 (k) To receive monies coming to it by way of fees for
107 services or by appropriations;

108 (l) To serve as the single state agency in receiving
109 and administering any and all funds available from any source for
110 the purpose of service delivery, training, research and education
111 in regard to all forms of mental illness, mental retardation,
112 alcoholism, drug misuse and developmental disabilities, unless
113 such funds are specifically designated to a particular agency or
114 institution by the federal government, the Mississippi Legislature
115 or any other grantor;

116 (m) To establish mental health holding centers for the
117 purpose of providing short-term emergency mental health treatment,
118 places for holding persons awaiting commitment proceedings or
119 awaiting placement in a state mental health facility following
120 commitment, and for diverting placement in a state mental health
121 facility. These mental health holding facilities shall be readily
122 accessible, available statewide, and be in compliance with
123 emergency services' minimum standards. They shall be
124 comprehensive and available to triage and make appropriate
125 clinical disposition, including the capability to access inpatient
126 services or less restrictive alternatives, as needed, as
127 determined by medical staff. Such facility shall have medical,
128 nursing and behavioral services available on a

129 twenty-four-hour-a-day basis. The board may provide for all or
130 part of the costs of establishing and operating the holding
131 centers in each district from such funds as may be appropriated to
132 the board for such use, and may participate in any plan or
133 agreement with any public or private entity under which the entity
134 will provide all or part of the costs of establishing and
135 operating a holding center in any district;

136 (n) To certify/license case managers, mental health
137 therapists, mental retardation therapists, mental
138 health/retardation program administrators, addiction counselors
139 and others as deemed appropriate by the board. Persons already
140 professionally licensed by another state board or agency are not
141 required to be certified/licensed under this section by the
142 Department of Mental Health. The department shall not use
143 professional titles in its certification/licensure process for
144 which there is an independent licensing procedure. Such
145 certification/licensure shall be valid only in the state mental
146 health system, in programs funded and/or certified by the
147 Department of Mental Health, and/or in programs certified/licensed
148 by the State Department of Health that are operated by the state
149 mental health system serving the mentally ill, mentally retarded,
150 developmentally disabled or persons with addictions, and shall not
151 be transferable;

152 (o) To develop formal mental health worker
153 qualifications for regional mental health and mental retardation
154 commissions and other community service providers. The State
155 Personnel Board shall develop and promulgate a recommended salary
156 scale and career ladder for all regional mental health/retardation
157 center therapists and case managers who work directly with
158 clients. The State Personnel Board shall also develop and
159 promulgate a career ladder for all direct care workers employed by
160 the State Department of Mental Health;

161 (p) The employees of the department shall be governed
162 by personnel merit system rules and regulations, the same as other
163 employees in state services;

164 (q) To establish such rules and regulations as may be
165 necessary in carrying out the provisions of this chapter,
166 including the establishment of a formal grievance procedure to
167 investigate and attempt to resolve consumer complaints;

168 (r) To grant easements for roads, utilities and any
169 other purpose it finds to be in the public interest;

170 (s) To survey statutory designations, building markers
171 and the names given to mental health/retardation facilities and
172 proceedings in order to recommend deletion of obsolete and
173 offensive terminology relative to the mental health/retardation
174 system;

175 (t) To ensure an effective case management system
176 directed at persons who have been discharged from state and
177 private psychiatric hospitals to ensure their continued well-being
178 in the community;

179 (u) To develop formal service delivery standards
180 designed to measure the quality of services delivered to community
181 clients, as well as the timeliness of services to community
182 clients provided by regional mental health/retardation commissions
183 and other community services providers;

184 (v) To establish regional state offices to provide
185 mental health crisis intervention centers and services available
186 throughout the state to be utilized on a case-by-case emergency
187 basis. The regional services director, other staff and delivery
188 systems shall meet the minimum standards of the Department of
189 Mental Health;

190 (w) To require performance contracts with community
191 mental health/mental retardation service providers to contain
192 performance indicators to measure successful outcomes, including
193 diversion of persons from inpatient psychiatric hospitals,

194 rapid/timely response to emergency cases, client satisfaction with
195 services and other relevant performance measures;

196 (x) To enter into interagency agreements with other
197 state agencies, school districts and other local entities as
198 determined necessary by the department to ensure that local mental
199 health service entities are fulfilling their responsibilities to
200 the overall state plan for behavioral services;

201 (y) To establish and maintain a toll-free grievance
202 reporting telephone system for the receipt and referral for
203 investigation of all complaints by clients of state and community
204 mental health/retardation facilities;

205 (z) To establish a peer review/quality assurance
206 evaluation system that assures that appropriate assessment,
207 diagnosis and treatment is provided according to established
208 professional criteria and guidelines;

209 (aa) To develop and implement state plans for the
210 purpose of assisting with the care and treatment of persons with
211 Alzheimer's disease and other dementia. This plan shall include
212 education and training of service providers, care-givers in the
213 home setting and others who deal with persons with Alzheimer's
214 disease and other dementia, and development of adult day care,
215 family respite care and counseling programs to assist families who
216 maintain persons with Alzheimer's disease and other dementia in
217 the home setting. No agency shall be required to provide any
218 services under this section until such time as sufficient funds
219 have been appropriated or otherwise made available by the
220 Legislature specifically for the purposes of the treatment of
221 persons with Alzheimer's and other dementia;

222 (bb) Working with the advice and consent of the
223 administration of Ellisville State School, to enter into
224 negotiations with the Economic Development Authority of Jones
225 County for the purpose of negotiating the possible exchange, lease
226 or sale of lands owned by Ellisville State School to the Economic

227 Development Authority of Jones County. It is the intent of the
228 Mississippi Legislature that such negotiations shall ensure that
229 the financial interest of the persons with mental retardation
230 served by Ellisville State School will be held paramount in the
231 course of these negotiations. The Legislature also recognizes the
232 importance of economic development to the citizens of the State of
233 Mississippi and Jones County, and encourages fairness to the
234 Economic Development Authority of Jones County. Any negotiations
235 proposed which would result in the recommendation for exchange,
236 lease or sale of lands owned by Ellisville State School must have
237 the approval of the State Board of Mental Health. The State Board
238 of Mental Health may and has the final authority as to whether or
239 not these negotiations result in the exchange, lease or sale of
240 the properties it currently holds in trust for citizens with
241 mental retardation served at Ellisville State School.

242 If the State Board of Mental Health authorizes the sale of
243 lands owned by Ellisville State School, as provided for under this
244 paragraph (bb), the monies derived from the sale shall be placed
245 into a special fund that is created in the State Treasury to be
246 known as the "Ellisville State School Client's Trust Fund." The
247 principal of the trust fund shall remain inviolate and shall never
248 be expended. Any interest earned on the principal may be expended
249 solely for the benefits of clients served at Ellisville State
250 School. The State Treasurer shall invest the monies of the trust
251 fund in any of the investments authorized for the Mississippi
252 Prepaid Affordable College Tuition Program under Section 37-155-9,
253 and those investments shall be subject to the limitations
254 prescribed by Section 37-155-9. Unexpended amounts remaining in
255 the trust fund at the end of a fiscal year shall not lapse into
256 the State General Fund, and any interest earned on amounts in the
257 trust fund shall be deposited to the credit of the trust fund.
258 The administration of Ellisville State School may use any interest
259 earned on the principal of the trust fund, upon appropriation by

260 the Legislature, as needed for services or facilities by the
261 clients of Ellisville State School. Ellisville State School shall
262 make known to the Legislature, through the Legislative Budget
263 Committee and the respective Appropriations Committees of the
264 House and Senate, its proposed use of interest earned on the
265 principal of the trust fund for any fiscal year in which it
266 proposes to make expenditures thereof. The State Treasurer shall
267 provide Ellisville State School with an annual report on the
268 Ellisville State School Client's Trust Fund to indicate the total
269 monies in the trust fund, interest earned during the year,
270 expenses paid from the trust fund and such other related
271 information.

272 Nothing in this section shall be construed as applying to or
273 affecting mental health/retardation services provided by hospitals
274 as defined in Section 41-9-3(a), and/or their subsidiaries and
275 divisions, which hospitals, subsidiaries and divisions are
276 licensed and regulated by the Mississippi State Department of
277 Health unless such hospitals, subsidiaries or divisions
278 voluntarily request certification by the Mississippi State
279 Department of Mental Health.

280 All new programs authorized under this section shall be
281 subject to the availability of funds appropriated therefor by the
282 Legislature;

283 (cc) Working with the advice and consent of the
284 administration of Boswell Regional Center, to enter into
285 negotiations with the Economic Development Authority of Simpson
286 County for the purpose of negotiating the possible exchange, lease
287 or sale of lands owned by Boswell Regional Center to the Economic
288 Development Authority of Simpson County. It is the intent of the
289 Mississippi Legislature that such negotiations shall ensure that
290 the financial interest of the persons with mental retardation
291 served by Boswell Regional Center will be held paramount in the
292 course of these negotiations. The Legislature also recognizes the

293 importance of economic development to the citizens of the State of
294 Mississippi and Simpson County, and encourages fairness to the
295 Economic Development Authority of Simpson County. Any
296 negotiations proposed which would result in the recommendation for
297 exchange, lease or sale of lands owned by Boswell Regional Center
298 must have the approval of the State Board of Mental Health. The
299 State Board of Mental Health may and has the final authority as to
300 whether or not these negotiations result in the exchange, lease or
301 sale of the properties it currently holds in trust for citizens
302 with mental retardation served at Boswell Regional Center. In any
303 such exchange, lease or sale of such lands owned by Boswell
304 Regional Center, title to all minerals, oil and gas on such lands
305 shall be reserved, together with the right of ingress and egress
306 to remove same, whether such provisions be included in the terms
307 of any such exchange, lease or sale or not.

308 If the State Board of Mental Health authorizes the sale of
309 lands owned by Boswell Regional Center, as provided for under this
310 paragraph (cc), the monies derived from the sale shall be placed
311 into a special fund that is created in the State Treasury to be
312 known as the "Boswell Regional Center Client's Trust Fund." The
313 principal of the trust fund shall remain inviolate and shall never
314 be expended. Any earnings on the principal may be expended solely
315 for the benefits of clients served at Boswell Regional Center.
316 The State Treasurer shall invest the monies of the trust fund in
317 any of the investments authorized for the Mississippi Prepaid
318 Affordable College Tuition Program under Section 37-155-9, and
319 those investments shall be subject to the limitations prescribed
320 by Section 37-155-9. Unexpended amounts remaining in the trust
321 fund at the end of a fiscal year shall not lapse into the State
322 General Fund, and any earnings on amounts in the trust fund shall
323 be deposited to the credit of the trust fund. The administration
324 of Boswell Regional Center may use any earnings on the principal
325 of the trust fund, upon appropriation by the Legislature, as

326 needed for services or facilities by the clients of Boswell
327 Regional Center. Boswell Regional Center shall make known to the
328 Legislature, through the Legislative Budget Committee and the
329 respective Appropriations Committees of the House and Senate, its
330 proposed use of the earnings on the principal of the trust fund
331 for any fiscal year in which it proposes to make expenditures
332 thereof. The State Treasurer shall provide Boswell Regional
333 Center with an annual report on the Boswell Regional Center
334 Client's Trust Fund to indicate the total monies in the trust
335 fund, interest and other income earned during the year, expenses
336 paid from the trust fund and such other related information.

337 Nothing in this section shall be construed as applying to or
338 affecting mental health/retardation services provided by hospitals
339 as defined in Section 41-9-3(a), and/or their subsidiaries and
340 divisions, which hospitals, subsidiaries and divisions are
341 licensed and regulated by the Mississippi State Department of
342 Health unless such hospitals, subsidiaries or divisions
343 voluntarily request certification by the Mississippi State
344 Department of Mental Health.

345 All new programs authorized under this section shall be
346 subject to the availability of funds appropriated therefor by the
347 Legislature;

348 (dd) Notwithstanding any other section of the code, the
349 Board of Mental Health shall be authorized to fingerprint and
350 perform a criminal history record check on every employee or
351 volunteer. Every employee and volunteer shall provide a valid
352 current social security number and/or driver's license number
353 which shall be furnished to conduct the criminal history record
354 check. If no disqualifying record is identified at the state
355 level, fingerprints shall be forwarded to the Federal Bureau of
356 Investigation for a national criminal history record check;

357 (ee) The Department of Mental Health shall have the
358 authority for the development of a consumer friendly single point

359 of intake and referral system within its service areas for persons
360 with mental illness, mental retardation, developmental
361 disabilities or alcohol or substance abuse who need assistance
362 identifying or accessing appropriate services. The department
363 will develop and implement a comprehensive evaluation procedure
364 ensuring that, where appropriate, the affected person or their
365 parent or legal guardian will be involved in the assessment and
366 planning process. The department, as the point of intake and as
367 service provider, shall have the authority to determine the
368 appropriate institutional, hospital or community care setting for
369 persons who have been diagnosed with mental illness, mental
370 retardation, developmental disabilities and/or alcohol or
371 substance abuse, and may provide for the least restrictive
372 placement if the treating professional believes such a setting is
373 appropriate, if the person affected or their parent or legal
374 guardian wants such services, and if the department can do so with
375 a reasonable modification of the program without creating a
376 fundamental alteration of the program. The least restrictive
377 setting could be an institution, hospital or community setting,
378 based upon the needs of the affected person or their parent or
379 legal guardian;

380 (ff) To have the sole power and discretion to enter
381 into, sign, execute and deliver long-term or multi-year leases of
382 real and personal property to and from other state and federal
383 agencies and private entities deemed to be in the public interest.
384 Any monies derived from those leases shall be deposited into the
385 funds of the Department of Mental Health for its exclusive use.
386 Those leases shall be filed with the Secretary of State; and

387 (gg) To purchase professional liability insurance for
388 physicians, dentists and nurse practitioners employed by the
389 Department of Mental Health.

390 **SECTION 2.** This act shall take effect and be in force from
391 and after July 1, 2004.