

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2406

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE BOARD OF MENTAL HEALTH TO LEASE PROPERTY IN THE NAME
3 OF THE DEPARTMENT OF MENTAL HEALTH TO AND FROM PRIVATE ENTITIES
4 AND TO RECEIVE MONIES DERIVED FROM ANY SUCH LEASE; AND FOR RELATED
5 PURPOSES.

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

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

9 41-4-7. The State Board of Mental Health shall have the
10 following powers and duties:

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

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

24 (c) To supervise, coordinate and establish standards
25 for all operations and activities of the state related to mental
26 health and providing mental health services, including, but not
27 limited to: the requirement that no person be approved for
28 treatment which is paid for by funds made available through the

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

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

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

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

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

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

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

98 (i) To establish and collect reasonable fees for
99 necessary inspection services incidental to certification or
100 compliance;

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

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

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

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

128 centers in each district from such funds as may be appropriated to
129 the board for such use, and may participate in any plan or
130 agreement with any public or private entity under which the entity
131 will provide all or part of the costs of establishing and
132 operating a holding center in any district;

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

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

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

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

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

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

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

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

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

187 (w) To require performance contracts with community
188 mental health/mental retardation service providers to contain
189 performance indicators to measure successful outcomes, including
190 diversion of persons from inpatient psychiatric hospitals,
191 rapid/timely response to emergency cases, client satisfaction with
192 services and other relevant performance measures;

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

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

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

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

219 (bb) Working with the advice and consent of the
220 administration of Ellisville State School, to enter into
221 negotiations with the Economic Development Authority of Jones
222 County for the purpose of negotiating the possible exchange, lease
223 or sale of lands owned by Ellisville State School to the Economic
224 Development Authority of Jones County. It is the intent of the
225 Mississippi Legislature that such negotiations shall ensure that

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

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

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

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

277 All new programs authorized under this section shall be
278 subject to the availability of funds appropriated therefor by the
279 Legislature;

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

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

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

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

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

342 All new programs authorized under this section shall be
343 subject to the availability of funds appropriated therefor by the
344 Legislature;

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

354 (ee) The Department of Mental Health shall have the
355 authority for the development of a consumer friendly single point
356 of intake and referral system within its service areas for persons
357 with mental illness, mental retardation, developmental

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

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

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