

By: Representative Hines

To: Public Health and Human
Services

HOUSE BILL NO. 407

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE DEPARTMENT OF MENTAL HEALTH TO CERTIFY, COORDINATE
3 AND ESTABLISH MINIMUM STANDARDS AND ESTABLISH MINIMUM REQUIRED
4 SERVICES FOR THE CERTIFICATION OF PRIVATELY-OWNED MENTAL HEALTH
5 PROVIDERS WHO ARE NOT A PART OF THE STATE-OPERATED MENTAL HEALTH
6 COMMUNITY PROVIDERS AND DO NOT RECEIVE FUNDING FROM STATE MENTAL
7 HEALTH FUNDS PROVIDED BY THE DEPARTMENT; TO PROVIDE THAT THE
8 ADDITIONAL CERTIFICATION CLASSIFICATION SHALL BE REQUIRED TO MEET
9 MINIMUM STANDARDS FOR SERVICES AND SAFETY AS THOSE PROMULGATED FOR
10 REGIONAL AND COMMUNITY MENTAL HEALTH PROVIDERS; TO AUTHORIZE THE
11 DEPARTMENT TO PERMANENTLY WAIVE ANY ADDITIONAL REQUIREMENTS THAT
12 ARE NOT SUITABLE FOR THE ENVIRONMENT, STRUCTURE OR SERVICES
13 OFFERED BY SUCH PRIVATELY-OWNED MENTAL HEALTH PROVIDERS; AND FOR
14 RELATED PURPOSES.

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

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

18 41-4-7. The State Board of Mental Health shall have the
19 following powers and duties:

20 (a) To appoint, with the advice and consent of the
21 Senate, a full-time Executive Director of the Department of Mental
22 Health, who shall be employed by the board and shall serve as
23 executive secretary to the board. The executive director shall
24 serve for a term of four (4) years, consistent with the provisions



25 of Section 7-1-35, Mississippi Code of 1972. The first director
26 shall be a duly licensed physician with special interest and
27 competence in psychiatry, and shall possess a minimum of three (3)
28 years' experience in clinical and administrative psychiatry.
29 Subsequent directors shall possess at least a master's degree or
30 its equivalent, and shall possess at least ten (10) years'
31 administrative experience in the field of mental health. The
32 salary of the executive director shall be determined by the board;

33 (b) To appoint a Medical Director for the Department of
34 Mental Health. The medical director shall provide clinical
35 oversight in the implementation of evidence-based and best
36 practices; provide clinical leadership in the integration of
37 mental health, intellectual disability and addiction services with
38 community partners in the public and private sectors; and provide
39 oversight regarding standards of care. The medical director shall
40 serve at the will and pleasure of the board, and will undergo an
41 annual review of job performance and future service to the
42 department;

43 (c) To establish and implement its state strategic
44 plan;

45 (d) To develop a strategic plan for the development of
46 services for persons with mental illness, persons with
47 developmental disabilities and other clients of the public mental
48 health system. Such strategic planning program shall require that
49 the board, acting through the Strategic Planning and Best



Practices Committee, perform the following functions respecting the delivery of services:

(i) Establish measures for determining the efficiency and effectiveness of the services specified in Section 41-4-1(2);

(ii) Conducting studies of community-based care in other jurisdictions to determine which services offered in these jurisdictions have the potential to provide the citizens of Mississippi with more effective and efficient community-based care;

(iii) Evaluating the efficiency and effectiveness of the services specified in Section 41-4-1(2);

(iv) Recommending to the Legislature by January 1, 2014, any necessary additions, deletions or other changes necessary to the services specified in Section 41-4-1(2);

(v) Implementing by July 1, 2012, a system of performance measures for the services specified in Section 41-4-1(2);

(vi) Recommending to the Legislature any changes that the department believes are necessary to the current laws addressing civil commitment;

(vii) Conducting any other activities necessary to the evaluation and study of the services specified in Section 41-4-1(2);



(viii) Assisting in conducting all necessary strategic planning for the delivery of all other services of the department. Such planning shall be conducted so as to produce a single strategic plan for the services delivered by the public mental health system and shall establish appropriate mission statements, goals, objectives and performance indicators for all programs and services of the public mental health system. For services other than those specified in Section 41-4-1(2), the committee shall recommend to the State Board of Mental Health a strategic plan that the board may adopt or modify;

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

(f) [Repealed]

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

(h) To collect reasonable fees for its services; however, if it is determined that a person receiving services is unable to pay the total fee, the department shall collect no more than the amount such person is able to pay;

(i) To certify, coordinate and establish minimum standards and establish minimum required services, as specified in Section 41-4-1(2), for regional mental health and intellectual



99 disability commissions and other community service providers for
100 community or regional programs and services in adult mental
101 health, children and youth mental health, intellectual
102 disabilities, alcoholism, drug misuse, developmental disabilities,
103 compulsive gambling, addictive disorders and related programs
104 throughout the state. Such regional mental health and
105 intellectual disability commissions and other community service
106 providers shall, on or before July 1 of each year, submit an
107 annual operational plan to the State Department of Mental Health
108 for approval or disapproval based on the minimum standards and
109 minimum required services established by the department for
110 certification and itemize the services specified in Section
111 41-4-1(2), including financial statements. As part of the annual
112 operation plan required by this paragraph (i) submitted by any
113 regional community mental health center or by any other reasonable
114 certification deemed acceptable by the department, the community
115 mental health center shall state those services specified in
116 Section 41-4-1(2) that it will provide and also those services
117 that it will not provide. If the department finds deficiencies in
118 the plan of any regional commission or community service provider
119 based on the minimum standards and minimum required services
120 established for certification, the department shall give the
121 regional commission or community service provider a six-month
122 probationary period to bring its standards and services up to the
123 established minimum standards and minimum required services. The



124 regional commission or community service provider shall develop a
125 sustainability business plan within thirty (30) days of being
126 placed on probation, which shall be signed by all commissioners
127 and shall include policies to address one or more of the
128 following: the deficiencies in programmatic services, clinical
129 service staff expectations, timely and appropriate billing,
130 processes to obtain credentialing for staff, monthly reporting
131 processes, third-party financial reporting and any other required
132 documentation as determined by the department. After the
133 six-month probationary period, if the department determines that
134 the regional commission or community service provider still does
135 not meet the minimum standards and minimum required services
136 established for certification, the department may remove the
137 certification of the commission or provider and from and after
138 July 1, 2011, the commission or provider shall be ineligible for
139 state funds from Medicaid reimbursement or other funding sources
140 for those services. However, the department shall not mandate a
141 standard or service, or decertify a regional commission or
142 community service provider for not meeting a standard or service,
143 if the standard or service does not have funding appropriated by
144 the Legislature or have a state, federal or local funding source
145 identified by the department. No county shall be required to levy
146 millage to provide a mandated standard or service above the
147 minimum rate required by Section 41-19-39. After the six-month
148 probationary period, the department may identify an appropriate



community service provider to provide any core services in that county that are not provided by a community mental health center. However, the department shall not offer reimbursement or other accommodations to a community service provider of core services that were not offered to the decertified community mental health center for the same or similar services. The State Board of Mental Health shall promulgate rules and regulations necessary to implement the provisions of this paragraph (i), in accordance with the Administrative Procedures Law (Section 25-43-1.101 et seq.);

(j) To establish and promulgate reasonable minimum standards for the construction and operation of state and all Department of Mental Health certified facilities, including reasonable minimum standards for the admission, diagnosis, care, treatment, transfer of patients and their records, and also including reasonable minimum standards for providing day care, outpatient care, emergency care, inpatient care and follow-up care, when such care is provided for persons with mental or emotional illness, an intellectual disability, alcoholism, drug misuse and developmental disabilities;

(k) To implement best practices for all services specified in Section 41-4-1(2), and to establish and implement all other services delivered by the Department of Mental Health. To carry out this responsibility, the board shall require the department to establish a division responsible for developing best practices based on a comprehensive analysis of the mental health



environment to determine what the best practices for each service are. In developing best practices, the board shall consider the cost and benefits associated with each practice with a goal of implementing only those practices that are cost-effective practices for service delivery. Such best practices shall be utilized by the board in establishing performance standards and evaluations of the community mental health centers' services required by paragraph (d) of this section;

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

(m) To establish and collect reasonable fees for necessary inspection services incidental to certification or compliance;

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

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

(p) To serve as the single state agency in receiving and administering any and all funds available from any source for the purpose of service delivery, training, research and education in regard to all forms of mental illness, intellectual disabilities, alcoholism, drug misuse and developmental disabilities, unless such funds are specifically designated to a



particular agency or institution by the federal government, the
Mississippi Legislature or any other grantor;

(q) To establish mental health holding centers for the
purpose of providing short-term emergency mental health treatment,
places for holding persons awaiting commitment proceedings or
awaiting placement in a state mental health facility following
commitment, and for diverting placement in a state mental health
facility. These mental health holding facilities shall be readily
accessible, available statewide, and be in compliance with
emergency services' minimum standards. They shall be
comprehensive and available to triage and make appropriate
clinical disposition, including the capability to access inpatient
services or less restrictive alternatives, as needed, as
determined by medical staff. Such facility shall have medical,
nursing and behavioral services available on a
twenty-four-hour-a-day basis. The board may provide for all or
part of the costs of establishing and operating the holding
centers in each district from such funds as may be appropriated to
the board for such use, and may participate in any plan or
agreement with any public or private entity under which the entity
will provide all or part of the costs of establishing and
operating a holding center in any district;

(r) To certify/license case managers, mental health
therapists, intellectual disability therapists, mental
health/intellectual disability program administrators, addiction



counselors and others as deemed appropriate by the board. Persons already professionally licensed by another state board or agency are not required to be certified/licensed under this section by the Department of Mental Health. The department shall not use professional titles in its certification/licensure process for which there is an independent licensing procedure. Such certification/licensure shall be valid only in the state mental health system, in programs funded and/or certified by the Department of Mental Health, and/or in programs certified/licensed by the State Department of Health that are operated by the state mental health system serving persons with mental illness, an intellectual disability, a developmental disability or addictions, and shall not be transferable;

(s) To develop formal mental health worker qualifications for regional mental health and intellectual disability commissions and other community service providers. The State Personnel Board shall develop and promulgate a recommended salary scale and career ladder for all regional mental health/intellectual disability center therapists and case managers who work directly with clients. The State Personnel Board shall also develop and promulgate a career ladder for all direct care workers employed by the State Department of Mental Health;

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



248 (u) To establish such rules and regulations as may be
249 necessary in carrying out the provisions of this chapter,
250 including the establishment of a formal grievance procedure to
251 investigate and attempt to resolve consumer complaints;

252 (v) To grant easements for roads, utilities and any
253 other purpose it finds to be in the public interest;

254 (w) To survey statutory designations, building markers
255 and the names given to mental health/intellectual disability
256 facilities and proceedings in order to recommend deletion of
257 obsolete and offensive terminology relative to the mental
258 health/intellectual disability system. Based upon a
259 recommendation of the executive director, the board shall have the
260 authority to name/rename any facility operated under the auspices
261 of the Department of Mental Health for the sole purpose of
262 deleting such terminology;

263 (x) To ensure an effective case management system
264 directed at persons who have been discharged from state and
265 private psychiatric hospitals to ensure their continued well-being
266 in the community;

267 (y) To develop formal service delivery standards
268 designed to measure the quality of services delivered to community
269 clients, as well as the timeliness of services to community
270 clients provided by regional mental health/intellectual disability
271 commissions and other community services providers;



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

(aa) To require performance contracts with community mental health/intellectual disability service providers to contain performance indicators to measure successful outcomes, including diversion of persons from inpatient psychiatric hospitals, rapid/timely response to emergency cases, client satisfaction with services and other relevant performance measures;

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

(cc) To establish and maintain a toll-free grievance reporting telephone system for the receipt and referral for investigation of all complaints by clients of state and community mental health/intellectual disability facilities;

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



297 (ee) To develop and implement state plans for the
298 purpose of assisting with the care and treatment of persons with
299 Alzheimer's disease and other dementia. This plan shall include
300 education and training of service providers, caregivers in the
301 home setting and others who deal with persons with Alzheimer's
302 disease and other dementia, and development of adult day care,
303 family respite care and counseling programs to assist families who
304 maintain persons with Alzheimer's disease and other dementia in
305 the home setting. No agency shall be required to provide any
306 services under this section until such time as sufficient funds
307 have been appropriated or otherwise made available by the
308 Legislature specifically for the purposes of the treatment of
309 persons with Alzheimer's and other dementia;

310 (ff) Working with the advice and consent of the
311 administration of Ellisville State School, to enter into
312 negotiations with the Economic Development Authority of Jones
313 County for the purpose of negotiating the possible exchange, lease
314 or sale of lands owned by Ellisville State School to the Economic
315 Development Authority of Jones County. It is the intent of the
316 Mississippi Legislature that such negotiations shall ensure that
317 the financial interest of the persons with an intellectual
318 disability served by Ellisville State School will be held
319 paramount in the course of these negotiations. The Legislature
320 also recognizes the importance of economic development to the
321 citizens of the State of Mississippi and Jones County, and



encourages fairness to the Economic Development Authority of Jones County. Any negotiations proposed which would result in the recommendation for exchange, lease or sale of lands owned by Ellisville State School must have the approval of the State Board of Mental Health. The State Board of Mental Health may and has the final authority as to whether or not these negotiations result in the exchange, lease or sale of the properties it currently holds in trust for persons with an intellectual disability served at Ellisville State School.

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



347 The administration of Ellisville State School may use any interest
348 earned on the principal of the trust fund, upon appropriation by
349 the Legislature, as needed for services or facilities by the
350 clients of Ellisville State School. Ellisville State School shall
351 make known to the Legislature, through the Legislative Budget
352 Committee and the respective Appropriations Committees of the
353 House and Senate, its proposed use of interest earned on the
354 principal of the trust fund for any fiscal year in which it
355 proposes to make expenditures thereof. The State Treasurer shall
356 provide Ellisville State School with an annual report on the
357 Ellisville State School Client's Trust Fund to indicate the total
358 monies in the trust fund, interest earned during the year,
359 expenses paid from the trust fund and such other related
360 information.

361 Nothing in this section shall be construed as applying to or
362 affecting mental health/intellectual disability services provided
363 by hospitals as defined in Section 41-9-3(a), and/or their
364 subsidiaries and divisions, which hospitals, subsidiaries and
365 divisions are licensed and regulated by the Mississippi State
366 Department of Health unless such hospitals, subsidiaries or
367 divisions voluntarily request certification by the Mississippi
368 State Department of Mental Health.

369 All new programs authorized under this section shall be
370 subject to the availability of funds appropriated therefor by the
371 Legislature;



372 (gg) Working with the advice and consent of the
373 administration of Boswell Regional Center, to enter into
374 negotiations with the Economic Development Authority of Simpson
375 County for the purpose of negotiating the possible exchange, lease
376 or sale of lands owned by Boswell Regional Center to the Economic
377 Development Authority of Simpson County. It is the intent of the
378 Mississippi Legislature that such negotiations shall ensure that
379 the financial interest of the persons with an intellectual
380 disability served by Boswell Regional Center will be held
381 paramount in the course of these negotiations. The Legislature
382 also recognizes the importance of economic development to the
383 citizens of the State of Mississippi and Simpson County, and
384 encourages fairness to the Economic Development Authority of
385 Simpson County. Any negotiations proposed which would result in
386 the recommendation for exchange, lease or sale of lands owned by
387 Boswell Regional Center must have the approval of the State Board
388 of Mental Health. The State Board of Mental Health may and has
389 the final authority as to whether or not these negotiations result
390 in the exchange, lease or sale of the properties it currently
391 holds in trust for persons with an intellectual disability served
392 at Boswell Regional Center. In any such exchange, lease or sale
393 of such lands owned by Boswell Regional Center, title to all
394 minerals, oil and gas on such lands shall be reserved, together
395 with the right of ingress and egress to remove same, whether such



provisions be included in the terms of any such exchange, lease or sale or not.

If the State Board of Mental Health authorizes the sale of lands owned by Boswell Regional Center, as provided for under this paragraph (gg), the monies derived from the sale shall be placed into a special fund that is created in the State Treasury to be known as the "Boswell Regional Center Client's Trust Fund." The principal of the trust fund shall remain inviolate and shall never be expended. Any earnings on the principal may be expended solely for the benefits of clients served at Boswell Regional Center. The State Treasurer shall invest the monies of the trust fund in any of the investments authorized for the Mississippi Prepaid Affordable College Tuition Program under Section 37-155-9, and those investments shall be subject to the limitations prescribed by Section 37-155-9. Unexpended amounts remaining in the trust fund at the end of a fiscal year shall not lapse into the State General Fund, and any earnings on amounts in the trust fund shall be deposited to the credit of the trust fund. The administration of Boswell Regional Center may use any earnings on the principal of the trust fund, upon appropriation by the Legislature, as needed for services or facilities by the clients of Boswell Regional Center. Boswell Regional Center shall make known to the Legislature, through the Legislative Budget Committee and the respective Appropriations Committees of the House and Senate, its proposed use of the earnings on the principal of the trust fund



421 for any fiscal year in which it proposes to make expenditures
422 thereof. The State Treasurer shall provide Boswell Regional
423 Center with an annual report on the Boswell Regional Center
424 Client's Trust Fund to indicate the total monies in the trust
425 fund, interest and other income earned during the year, expenses
426 paid from the trust fund and such other related information.

427 Nothing in this section shall be construed as applying to or
428 affecting mental health/intellectual disability services provided
429 by hospitals as defined in Section 41-9-3(a), and/or their
430 subsidiaries and divisions, which hospitals, subsidiaries and
431 divisions are licensed and regulated by the Mississippi State
432 Department of Health unless such hospitals, subsidiaries or
433 divisions voluntarily request certification by the Mississippi
434 State Department of Mental Health.

435 All new programs authorized under this section shall be
436 subject to the availability of funds appropriated therefor by the
437 Legislature;

438 (hh) Notwithstanding any other section of the code, the
439 Board of Mental Health shall be authorized to fingerprint and
440 perform a criminal history record check on every employee or
441 volunteer. Every employee and volunteer shall provide a valid
442 current social security number and/or driver's license number
443 which shall be furnished to conduct the criminal history record
444 check. If no disqualifying record is identified at the state



level, fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check;

(ii) The Department of Mental Health shall have the authority for the development of a consumer friendly single point of intake and referral system within its service areas for persons with mental illness, an intellectual disability, developmental disabilities or alcohol or substance abuse who need assistance identifying or accessing appropriate services. The department will develop and implement a comprehensive evaluation procedure ensuring that, where appropriate, the affected person or their parent or legal guardian will be involved in the assessment and planning process. The department, as the point of intake and as service provider, shall have the authority to determine the appropriate institutional, hospital or community care setting for persons who have been diagnosed with mental illness, an intellectual disability, developmental disabilities and/or alcohol or substance abuse, and may provide for the least restrictive placement if the treating professional believes such a setting is appropriate, if the person affected or their parent or legal guardian wants such services, and if the department can do so with a reasonable modification of the program without creating a fundamental alteration of the program. The least restrictive setting could be an institution, hospital or community setting, based upon the needs of the affected person or their parent or legal guardian;



(jj) To have the sole power and discretion to enter into, sign, execute and deliver long-term or multiyear leases of real and personal property owned by the Department of Mental Health to and from other state and federal agencies and private entities deemed to be in the public's best interest. Any monies derived from such leases shall be deposited into the funds of the Department of Mental Health for its exclusive use. Leases to private entities shall be approved by the Department of Finance and Administration and all leases shall be filed with the Secretary of State;

(kk) To certify and establish minimum standards and minimum required services for county facilities used for housing, feeding and providing medical treatment for any person who has been involuntarily ordered admitted to a treatment center by a court of competent jurisdiction. The minimum standard for the initial assessment of those persons being housed in county facilities is for the assessment to be performed by a physician, preferably a psychiatrist, or by a nurse practitioner, preferably a psychiatric nurse practitioner. If the department finds deficiencies in any such county facility or its provider based on the minimum standards and minimum required services established for certification, the department shall give the county or its provider a six-month probationary period to bring its standards and services up to the established minimum standards and minimum required services. After the six-month probationary period, if



the department determines that the county or its provider still does not meet the minimum standards and minimum required services, the department may remove the certification of the county or provider and require the county to contract with another county having a certified facility to hold those persons for that period of time pending transportation and admission to a state treatment facility. Any cost incurred by a county receiving an involuntarily committed person from a county with a decertified holding facility shall be reimbursed by the home county to the receiving county; and

(ll) To provide orientation training to all new commissioners of regional commissions and annual training for all commissioners with continuing education regarding the Mississippi mental health system and services as developed by the State Department of Mental Health. Training shall be provided at the expense of the department except for travel expenses which shall be paid by the regional commission.

(mm) Effective July 1, 2025, to certify, coordinate and establish minimum standards and establish minimum required services, as specified in Section 41-4-1(2), for the certification of privately-owned mental health providers who are not a part of the state-operated mental health community providers and do not receive funding from state mental health funds provided by the Department of Mental Health. The additional certification classification shall be required to meet minimum standards for



services and safety as those promulgated for regional and
community mental health providers. However, privately-owned
mental health providers so certified shall be exempt from the
requirement to provide financial data and protected health
information pertaining to the individuals receiving services at
the privately-owned mental health providers. In addition, the
Department of Mental Health may permanently waive any additional
requirements that are specifically suitable for the regional and
community mental health providers but not suitable for the
environment, structure or services offered by such privately-owned
mental health providers.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2025.

