

By: Representatives Shows, Ellzey, Scott
(80th)

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1424

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE BOARD OF MENTAL HEALTH TO ENTER INTO
3 NEGOTIATIONS WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF JONES
4 COUNTY RELATING TO THE POSSIBLE EXCHANGE, LEASE OR SALE OF LANDS
5 OWNED BY ELLISVILLE STATE SCHOOL TO SUCH ECONOMIC DEVELOPMENT
6 AUTHORITY; TO CREATE A TRUST FUND IN WHICH SHALL BE DEPOSITED ANY
7 MONIES DERIVED FROM THE SALE OF SUCH LANDS; TO PROVIDE THAT MONIES
8 IN THE FUND SHALL BE USED SOLELY FOR THE BENEFIT OF CLIENTS SERVED
9 AT ELLISVILLE STATE SCHOOL; AND FOR RELATED PURPOSES.

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

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

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

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

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

28 (c) To supervise, coordinate and establish standards
29 for all operations and activities of the state related to mental
30 health and providing mental health services, including but not

31 limited to: the requirement that no person be approved for
32 treatment which is paid for by funds made available through the
33 department who has not had a treatment plan established as a
34 result of having been seen by a licensed physician or licensed
35 clinical psychologist and that physician or clinical psychologist
36 signing these plans stating that he/she has personally evaluated
37 the client and that the treatment plan is medically necessary. A
38 physician or clinical psychologist shall recertify each client's
39 record at least semiannually (except for persons with a diagnosis
40 of mental retardation/developmental disability which shall be
41 completed annually), and more often if medically indicated by
42 physically visiting the client and certifying same in the record.

43 The board shall have the authority to develop and implement all
44 standards and plans and shall have the authority to establish
45 appropriate actions, including financially punitive actions, to
46 insure enforcement of these established standards, in accordance
47 with the Administrative Procedures Law (Section 25-43-1 et seq.);

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

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

56 (f) To certify, coordinate and establish minimum
57 standards and establish minimum required services for regional
58 mental health and mental retardation commissions and other
59 community service providers for community or regional programs and
60 services in mental health, mental retardation, alcoholism, drug
61 misuse, developmental disabilities, compulsive gambling, addictive
62 disorders and related programs throughout the state. Such
63 regional mental health and mental retardation commissions and
64 other community service providers shall submit an annual
65 operational plan to the State Department of Mental Health for
66 approval or disapproval based on the minimum standards and minimum
67 required services established by the department for certification.

68 If the department finds deficiencies in the plan of any regional

commission or community service provider based on the minimum standards and minimum required services established for certification, the department shall give the regional commission or community service 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 regional commission or community service provider still does not meet the minimum standards and minimum required services established for certification, the department may remove the certification of the commission or provider. However, the department shall not mandate a standard or service, or decertify a regional commission or community service provider for not meeting a standard or service, if the standard or service does not have funding appropriated by the Legislature or have a funding source from the State Department of Mental Health or a local funding source. The State Board of Mental Health shall promulgate rules and regulations necessary to implement the provisions of this paragraph (f), in accordance with the Administrative Procedures Law (Section 25-43-1 et seq.).

(g) 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, mental retardation, alcoholism, drug misuse and developmental disabilities;

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

(i) To establish and collect reasonable fees for

necessary inspection services incidental to certification or compliance;

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

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

(l) 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, mental retardation, 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;

(m) 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 24-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;

(n) To certify/license case managers, mental health therapists, mental retardation therapists, mental health/retardation 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 the mentally ill, mentally retarded, developmental disabled or persons with addictions, and shall not be transferrable;

(o) To develop formal mental health worker qualifications for regional mental health and mental retardation 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/retardation 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;

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

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

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

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

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

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

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

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

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

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

205 mental health/retardation facilities; * * *

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

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

223 (bb) Working with the advice and consent of the
224 administration of Ellisville State School, to enter into
225 negotiations with the Economic Development Authority of Jones
226 County for the purpose of negotiating the possible exchange, lease
227 or sale of lands owned by Ellisville State School to the Economic
228 Development Authority of Jones County. It is the intent of the
229 Mississippi Legislature that such negotiations shall ensure that
230 the financial interest of the persons with mental retardation
231 served by Ellisville State School will be held paramount in the
232 course of these negotiations. The Legislature also recognizes the
233 importance of economic development to the citizens of the State of
234 Mississippi and Jones County, and encourages fairness to the
235 Economic Development Authority of Jones County. Any negotiations
236 proposed which would result in the recommendation for exchange,
237 lease or sale of lands owned by Ellisville State School must have
238 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 citizens with mental retardation 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 (bb), 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." Monies in the fund may be used solely for the benefit of clients served at Ellisville State School. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. The administration of Ellisville State School may use monies in the fund and/or interest from the fund, upon appropriation by the Legislature, as needed for services or facilities by the clients of Ellisville State School. Ellisville State School 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 monies in the fund for any fiscal year in which it proposes to make expenditures thereof. The State Treasurer shall provide Ellisville State School with an annual report on the Ellisville State School Client's Trust Fund to indicate the total monies in the fund, interest earned during the year, expenses paid from the fund and such other related information.

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

273 All new programs authorized under this section shall be
274 subject to the availability of funds appropriated therefor by the
275 Legislature.

276 SECTION 2. This act shall take effect and be in force from
277 and after its passage.