

By: Representative Vince

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 439
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT PSYCHIATRIC/MENTAL HEALTH NURSE PRACTITIONERS MAY
3 ESTABLISH THE TREATMENT PLANS FOR PERSONS RECEIVING MENTAL HEALTH
4 TREATMENT THAT IS PAID FOR BY FUNDS MADE AVAILABLE THROUGH THE
5 DEPARTMENT OF MENTAL HEALTH; AND FOR RELATED 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 that 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, licensed
31 clinical psychologist or a psychiatric/mental health nurse
32 practitioner, and that physician, clinical psychologist or
33 psychiatric/mental health nurse practitioner in accordance with an
34 established nurse practitioner-physician protocol signing these
35 plans stating that he/she has personally evaluated the client and
36 that the treatment plan is medically necessary. A physician,
37 clinical psychologist or psychiatric/mental health nurse
38 practitioner in accordance with an established nurse
39 practitioner-physician protocol shall recertify each client's
40 record at least semiannually (except for persons with a diagnosis
41 of mental retardation/developmental disability, which shall be
42 completed annually), and more often if medically indicated by
43 physically visiting the client and certifying same in the record.
44 The board shall have the authority to develop and implement all
45 standards and plans and shall have the authority to establish
46 appropriate actions, including financially punitive actions, to
47 ensure enforcement of these established standards, in accordance
48 with the Administrative Procedures Law (Section 25-43-1 et seq.);

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

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

57 (f) To certify, coordinate and establish minimum
58 standards and establish minimum required services for regional
59 mental health and mental retardation commissions and other
60 community service providers for community or regional programs and
61 services in mental health, mental retardation, alcoholism, drug

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

90 (g) To establish and promulgate reasonable minimum
91 standards for the construction and operation of state and all
92 Department of Mental Health certified facilities, including
93 reasonable minimum standards for the admission, diagnosis, care,
94 treatment, transfer of patients and their records, and also

95 including reasonable minimum standards for providing day care,
96 outpatient care, emergency care, inpatient care and follow-up
97 care, when such care is provided for persons with mental or
98 emotional illness, mental retardation, alcoholism, drug misuse and
99 developmental disabilities;

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

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

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

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

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

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

128 services or less restrictive alternatives, as needed, as
129 determined by medical staff. Such facility shall have medical,
130 nursing and behavioral services available on a
131 twenty-four-hour-a-day basis. The board may provide for all or
132 part of the costs of establishing and operating the holding
133 centers in each district from such funds as may be appropriated to
134 the board for such use, and may participate in any plan or
135 agreement with any public or private entity under which the entity
136 will provide all or part of the costs of establishing and
137 operating a holding center in any district;

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

154 (o) To develop formal mental health worker
155 qualifications for regional mental health and mental retardation
156 commissions and other community service providers. The State
157 Personnel Board shall develop and promulgate a recommended salary
158 scale and career ladder for all regional mental health/retardation
159 center therapists and case managers who work directly with
160 clients. The State Personnel Board shall also develop and

161 promulgate a career ladder for all direct care workers employed by
162 the State Department of Mental Health;

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

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

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

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

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

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

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

192 (w) To require performance contracts with community
193 mental health/mental retardation service providers to contain

194 performance indicators to measure successful outcomes, including
195 diversion of persons from inpatient psychiatric hospitals,
196 rapid/timely response to emergency cases, client satisfaction with
197 services and other relevant performance measures;

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

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

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

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

224 (bb) Working with the advice and consent of the
225 administration of Ellisville State School, to enter into
226 negotiations with the Economic Development Authority of Jones

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

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

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

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

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

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

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

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

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

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

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

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

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

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

392 **SECTION 2.** This act shall take effect and be in force from
393 and after July 1, 2005.