Chapter No. 501
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SENATE BILL NO. 2836

Originated in Senate _____ Secretary

SENATE BILL NO. 2836

AN ACT ENTITLED THE "ROSE ISABEL WILLIAMS MENTAL HEALTH REFORM ACT OF 2011"; TO AMEND SECTION 41-4-1 AND CREATE NEW SECTION 41-4-2, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF MENTAL HEALTH TO ADOPT REGULATIONS TO ENSURE THAT CORE ADULT MENTAL HEALTH SERVICES, CHILD MENTAL HEALTH SERVICES, INTELLECTUAL/DEVELOPMENTAL DISABILITIES SERVICES AND CRISIS SERVICES ARE PROVIDED IN EVERY COUNTY OF THE STATE; TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO DIRECT THE BOARD TO APPOINT A MEDICAL DIRECTOR FOR THE DEPARTMENT OF MENTAL HEALTH; TO EMPOWER THE BOARD TO ESTABLISH MINIMUM STANDARDS AND CERTIFY THE REQUIRED SERVICES FOR THE REGIONAL MENTAL HEALTH COMMISSIONS AND CENTERS AND OTHER COMMUNITY SERVICE PROVIDERS IN ORDER TO RECEIVE STATE FUNDS FOR SUCH SERVICES, AND TO IDENTIFY APPROPRIATE COMMUNITY SERVICE PROVIDERS TO PROVIDE SUCH CORE SERVICES; TO DIRECT THE BOARD TO ESTABLISH A STRATEGIC PLANNING AND BEST PRACTICES COMMITTEE FOR MENTAL HEALTH SERVICES; TO AMEND SECTION 41-19-33, MISSISSIPPI CODE OF 1972, TO DIRECT THE REGIONAL MENTAL HEALTH/INTELLECTUAL/DEVELOPMENTAL DISABILITY COMMISSIONS AND CENTERS TO ADMINISTER MENTAL HEALTH/INTELLECTUAL DISABILITY PROGRAMS REQUIRED BY THE BOARD IN ORDER TO BE ELIGIBLE FOR STATE FUNDING, TO ANNUALLY SUBMIT AN ITEMIZED SERVICE PLAN TO THE DEPARTMENT FOR CERTIFICATION; TO AMEND SECTION 41-21-87, MISSISSIPPI CODE OF 1972, TO PROVIDE NOTICE FOR THE DISCHARGE OF A CIVILLY COMMITTED PATIENT, AND TO DIRECT THE DEPARTMENT OF MENTAL HEALTH TO PROVIDE THE DIRECTORS OF COMMUNITY MENTAL HEALTH CENTERS THE NAMES OF INDIVIDUALS DISCHARGED TO THEIR CATCHMENT AREA WITH A REFERRAL FOR COMMUNITY-BASED SERVICES; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Rose Isabel Williams Mental Health Reform Act of 2011."

SECTION 2. Section 41-4-1, Mississippi Code of 1972, is amended as follows:

41-4-1. (1) The goal of the Rose Isabel Williams Mental Health Reform Act of 2011 is to reform the current Mississippi mental health delivery system so that necessary services, supports and operational structures for all its citizens with mental illness and/or alcohol and drug dependence and/or comorbidity,

whether children, youth or adults, are accessible and delivered preferably in the communities where these citizens live. To accomplish this goal, this act provides that initially certain core services as defined in subsection (2) of this section should be available to residents of each county in the state. These services may be provided by community mental health/intellectual disability centers. In order to determine what services are available, the State Department of Mental Health is directed to survey the community mental health/intellectual disability centers, and the community mental health/intellectual disability centers are directed to report what services they are currently providing in each county. This act does not require any community mental health/intellectual disability center to provide any service. This act is not independent authority for any program not otherwise authorized.

(2) The State Board of Mental Health is authorized and empowered to promulgate regulations to ensure that core adult mental health services, child mental health services, intellectual/developmental disability services, and substance abuse prevention and treatment/rehabilitation services are provided throughout the state through the regional mental health/intellectual disability commissions and centers or through other providers. The State Board of Mental Health is directed to give priority to crisis services and crisis stabilization unit services provided twenty-four (24) hours a day, seven (7) days a week, where trained emergency-crisis response staff triage referrals and respond in a timely and adequate manner to diffuse a current personal crisis situation.

SECTION 3. The following shall be codified as Section 41-4-2, Mississippi Code of 1972:

41-4-2. The purpose of this chapter is to coordinate, develop, improve, plan for, and provide all services for persons of this state with mental illness, emotional disturbance,

alcoholism, drug dependence, and an intellectual disability; to promote, safeguard and protect human dignity, social well-being and general welfare of these persons under the cohesive control of one (1) coordinating and responsible agency so that mental health and intellectual disability services and facilities may be uniformly provided more efficiently and economically to any resident of the State of Mississippi; and further to seek means for the prevention of these disabilities.

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

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

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

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

(c) To establish a Strategic Planning and Best Practices Committee (committee), which shall consist of fifteen (15) members as follows:

(i) Three (3) members of the State Board of Mental Health;

(ii) The Chairman of the Department of Psychiatry at the University of Mississippi Medical Center;

(iii) The Executive Director of the Division of Medicaid in the Office of the Governor;

(iv) Five (5) appointees of the Attorney General as follows:

1. One (1) director of a community mental health center that is not a member of the Mississippi Association of Community Mental Health Centers; and

2. Four (4) directors of community mental health centers that are members of the Mississippi Association of Community Mental Health Centers.

(v) Five (5) appointees of the Governor as follows:

1. One (1) representative of a nonprofit mental health advocacy group;

2. One (1) consumer or family member of a consumer of mental health services;

3. One (1) representative from a separate, private, nonprofit provider of a continuum of mental health services;

4. Two (2) individuals knowledgeable in the field of mental health and/or with experience in business management or public administration.

All appointed members of the Strategic Planning and Best Practices Committee shall be appointed to three-year terms and may be reappointed.

The Department of Mental Health shall provide professional and technical support to the committee, including the services of the department's medical director, and its planning staff. Additionally, the committee shall be authorized to seek grants from public and private sources to conduct the necessary studies and evaluations to support the committee in carrying out its responsibilities. The committee may also seek the assistance of the state institutions of higher learning, the State Department of Health, the Division of Medicaid, the State Department of Education, any community mental health center, and any other state agency whose expertise may be helpful to the committee.

This paragraph (c) shall stand repealed from and after July 1, 2013;

(d) To develop a system of strategic planning for the development of services for persons with mental illness, persons with developmental disabilities and other clients of the public mental health system. Such strategic planning program shall require that 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) To supervise, coordinate and establish standards for all operations and activities of the state related to mental health and providing mental health services. Nothing in this chapter shall preclude the services of a psychiatric/mental health nurse practitioner in accordance with an established nurse practitioner-physician protocol. A physician, clinical psychologist, psychiatric/mental health nurse practitioner in accordance with an established nurse practitioner-physician protocol or licensed clinical social worker shall certify each client's record annually after seeing the client in person or by telemedicine, and more often if medically indicated by physically

visiting the client and certifying same in the record. * * * The board shall have the authority to develop and implement all standards and plans and shall have the authority to establish appropriate actions, including financially punitive actions, to ensure enforcement of these established standards, in accordance with the Administrative Procedures Law (Section 25-43-1 et seq.). The regional community mental health/intellectual disability centers shall comply with all of the board's established standards that are applicable to those centers, and the board may withhold any state funds that otherwise would be allocated or paid to any of those centers that does not comply with the board's established standards. This paragraph (f) shall stand repealed on July 1, 2013;

(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 any 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 disability commissions and other community service providers for community or regional programs and services in adult mental health, children and youth mental health, intellectual disabilities, alcoholism, drug misuse, developmental disabilities, compulsive gambling, addictive disorders and related programs throughout the state. Such regional mental health and intellectual disability commissions and other community service providers shall, on or before July 1 of each year, submit an annual operational plan to the State Department of Mental Health

for approval or disapproval based on the minimum standards and minimum required services established by the department for certification and itemize the services specified in Section 41-4-1(2). As part of the annual operation plan required by this paragraph (i) submitted by any regional community mental health center or by any other reasonable certification deemed acceptable by the department, the community mental health center shall state those services specified in Section 41-4-1(2) that it will provide and also those services that it will not provide. 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 and from and after July 1, 2011, the commission or provider shall be ineligible for state funds from Medicaid reimbursement or other funding sources for those services. 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 state, federal or local funding source * * * identified by the department * * *. No county shall be required to levy millage to provide a mandated standard or service above the minimum rate required by Section 41-19-39. After the six-month 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;

(u) 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;

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

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

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

(y) To develop formal service delivery standards designed to measure the quality of services delivered to community clients, as well as the timeliness of services to community clients provided by regional mental health/intellectual disability 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;

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

(ff) Working with the advice and consent of the administration of Ellisville State School, to enter into negotiations with the Economic Development Authority of Jones County for the purpose of negotiating the possible exchange, lease

or sale of lands owned by Ellisville State School to the Economic Development Authority of Jones County. It is the intent of the Mississippi Legislature that such negotiations shall ensure that the financial interest of the persons with an intellectual disability served by Ellisville State School will be held paramount in the course of these negotiations. The Legislature also recognizes the importance of economic development to the 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.

The administration of Ellisville State School may use any interest earned on the principal of the trust 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 interest earned on the principal of the trust 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 trust fund, interest earned during the year, expenses paid from the trust fund and such other related information.

Nothing in this section shall be construed as applying to or affecting mental health/intellectual disability 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.

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

(gg) Working with the advice and consent of the administration of Boswell Regional Center, to enter into negotiations with the Economic Development Authority of Simpson County for the purpose of negotiating the possible exchange, lease or sale of lands owned by Boswell Regional Center to the Economic Development Authority of Simpson County. It is the intent of the Mississippi Legislature that such negotiations shall ensure that the financial interest of the persons with an intellectual

disability served by Boswell Regional Center will be held paramount in the course of these negotiations. The Legislature also recognizes the importance of economic development to the citizens of the State of Mississippi and Simpson County, and encourages fairness to the Economic Development Authority of Simpson County. Any negotiations proposed which would result in the recommendation for exchange, lease or sale of lands owned by Boswell Regional Center 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 Boswell Regional Center. In any such exchange, lease or sale of such lands owned by Boswell Regional Center, title to all minerals, oil and gas on such lands shall be reserved, together 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 for any fiscal year in which it proposes to make expenditures thereof. The State Treasurer shall provide Boswell Regional Center with an annual report on the Boswell Regional Center Client's Trust Fund to indicate the total monies in the trust fund, interest and other income earned during the year, expenses paid from the trust fund and such other related information.

Nothing in this section shall be construed as applying to or affecting mental health/intellectual disability 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.

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

(hh) Notwithstanding any other section of the code, the Board of Mental Health shall be authorized to fingerprint and perform a criminal history record check on every employee or volunteer. Every employee and volunteer shall provide a valid current social security number and/or driver's license number which shall be furnished to conduct the criminal history record 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. 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.

SECTION 5. Section 41-19-33, Mississippi Code of 1972, is amended as follows:

41-19-33. (1) Each region so designated or established under Section 41-19-31 shall establish a regional commission to be composed of members appointed by the boards of supervisors of the various counties in the region. It shall be the duty of such regional commission to administer mental health/intellectual disability programs certified and required by the State Board of Mental Health and as specified in Section 41-4-1(2). In addition, once designated and established as provided hereinabove, a

regional commission shall have the following authority and shall pursue and promote the following general purposes:

(a) To establish, own, lease, acquire, construct, build, operate and maintain mental illness, mental health, intellectual disability, alcoholism and general rehabilitative facilities and services designed to serve the needs of the people of the region so designated; provided that the services supplied by the regional commissions shall include those services determined by the Department of Mental Health to be necessary and may include, in addition to the above, services for persons with developmental and learning disabilities; for persons suffering from narcotic addiction and problems of drug abuse and drug dependence; and for the aging as designated and certified by the Department of Mental Health. Such regional mental health and intellectual disability commissions and other community service providers shall, on or before July 1 of each year, submit an annual operational plan to the Department of Mental Health for approval or disapproval based on the minimum standards and minimum required services established by the department for certification and itemize the services as specified in Section 41-4-1(2). As part of the annual operation plan required by Section 41-4-7(h) submitted by any regional community mental health center or by any other reasonable certification deemed acceptable by the department, the community mental health center shall state those services specified in Section 41-4-1(2) that it will provide and also those services that it will not provide. 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 and from and after July 1, 2011, the commission or provider shall be ineligible for state funds from Medicaid reimbursement or other funding sources for those services. After the six-month probationary period, the Department of Mental Health 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.

(b) To provide facilities and services for the prevention of mental illness, mental disorders, developmental and learning disabilities, alcoholism, narcotic addiction, drug abuse, drug dependence and other related handicaps or problems (including the problems of the aging) among the people of the region so designated, and for the rehabilitation of persons suffering from such illnesses, disorders, handicaps or problems as designated and certified by the Department of Mental Health.

(c) To promote increased understanding of the problems of mental illness, intellectual disabilities, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse and drug dependence and other related problems (including the problems of the aging) by the people of the region, and also to promote increased understanding of the purposes and methods of the rehabilitation of persons suffering from such illnesses, disorders, handicaps or problems as designated and certified by the Department of Mental Health.

(d) To enter into contracts and to make such other arrangements as may be necessary, from time to time, with the United States government, the government of the State of Mississippi and such other agencies or governmental bodies as may be approved by and acceptable to the regional commission for the purpose of establishing, funding, constructing, operating and maintaining facilities and services for the care, treatment and rehabilitation of persons suffering from mental illness, an intellectual disability, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse, drug dependence and other illnesses, disorders, handicaps and problems (including the problems of the aging) as designated and certified by the Department of Mental Health.

(e) To enter into contracts and make such other arrangements as may be necessary with any and all private businesses, corporations, partnerships, proprietorships or other private agencies, whether organized for profit or otherwise, as may be approved by and acceptable to the regional commission for the purpose of establishing, funding, constructing, operating and maintaining facilities and services for the care, treatment and rehabilitation of persons suffering from mental illness, an intellectual disability, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse, drug dependence and other illnesses, disorders, handicaps and problems (including the problems of the aging) relating to minimum services established by the Department of Mental Health.

(f) To promote the general mental health of the people of the region.

(g) To pay the administrative costs of the operation of the regional commissions, including per diem for the members of the commission and its employees, attorney's fees, if and when such are required in the opinion of the commission, and such other expenses of the commission as may be necessary. The Department of

Mental Health standards and audit rules shall determine what administrative cost figures shall consist of for the purposes of this paragraph. Each regional commission shall submit a cost report annually to the Department of Mental Health in accordance with guidelines promulgated by the department.

(h) To employ and compensate any personnel that may be necessary to effectively carry out the programs and services established under the provisions of the aforesaid act, provided such person meets the standards established by the Department of Mental Health.

(i) To acquire whatever hazard, casualty or workers' compensation insurance that may be necessary for any property, real or personal, owned, leased or rented by the commissions, or any employees or personnel hired by the commissions.

(j) To acquire professional liability insurance on all employees as may be deemed necessary and proper by the commission, and to pay, out of the funds of the commission, all premiums due and payable on account thereof.

(k) To provide and finance within their own facilities, or through agreements or contracts with other local, state or federal agencies or institutions, nonprofit corporations, or political subdivisions or representatives thereof, programs and services for persons with mental illness, including treatment for alcoholics, and promulgating and administering of programs to combat drug abuse and programs for services for persons with an intellectual disability.

(l) To borrow money from private lending institutions in order to promote any of the foregoing purposes. A commission may pledge collateral, including real estate, to secure the repayment of money borrowed under the authority of this paragraph. Any such borrowing undertaken by a commission shall be on terms and conditions that are prudent in the sound judgment of the members of the commission, and the interest on any such loan shall

not exceed the amount specified in Section 75-17-105. Any money borrowed, debts incurred or other obligations undertaken by a commission, regardless of whether borrowed, incurred or undertaken before or after the effective date of this act, shall be valid, binding and enforceable if it or they are borrowed, incurred or undertaken for any purpose specified in this section and otherwise conform to the requirements of this paragraph.

(m) To acquire, own and dispose of real and personal property. Any real and personal property paid for with state and/or county appropriated funds must have the written approval of the Department of Mental Health and/or the county board of supervisors, depending on the original source of funding, before being disposed of under this paragraph.

(n) To enter into managed care contracts and make such other arrangements as may be deemed necessary or appropriate by the regional commission in order to participate in any managed care program. Any such contract or arrangement affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

(o) To provide facilities and services on a discounted or capitated basis. Any such action when affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

(p) To enter into contracts, agreements or other arrangements with any person, payor, provider or other entity, under which the regional commission assumes financial risk for the provision or delivery of any services, when deemed to be necessary or appropriate by the regional commission. Any action under this paragraph affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

(q) To provide direct or indirect funding, grants, financial support and assistance for any health maintenance organization, preferred provider organization or other managed care entity or contractor, where such organization, entity or contractor is operated on a nonprofit basis. Any action under this paragraph affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

(r) To form, establish, operate, and/or be a member of or participant in, either individually or with one or more other regional commissions, any managed care entity as defined in Section 83-41-403(c). Any action under this paragraph affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

(s) To meet at least annually with the board of supervisors of each county in its region for the purpose of presenting its total annual budget and total mental health/intellectual disability services system. The commission shall submit an annual report on the adult mental health services, children mental health services and intellectual disability services required by the State Board of Mental Health.

(t) To provide alternative living arrangements for persons with serious mental illness, including, but not limited to, group homes for persons with chronic mental illness.

(u) To make purchases and enter into contracts for purchasing in compliance with the public purchasing law, Sections 31-7-12 and 31-7-13, with compliance with the public purchasing law subject to audit by the State Department of Audit.

(v) To insure that all available funds are used for the benefit of persons with mental illness, persons with an intellectual disability, substance abusers and persons with developmental disabilities with maximum efficiency and minimum

administrative cost. At any time a regional commission, and/or other related organization whatever it may be, accumulates surplus funds in excess of one-half (1/2) of its annual operating budget, the entity must submit a plan to the Department of Mental Health stating the capital improvements or other projects that require such surplus accumulation. If the required plan is not submitted within forty-five (45) days of the end of the applicable fiscal year, the Department of Mental Health shall withhold all state appropriated funds from such regional commission until such time as the capital improvement plan is submitted. If the submitted capital improvement plan is not accepted by the department, the surplus funds shall be expended by the regional commission in the local mental health region on group homes for persons with mental illness, persons with an intellectual disability, substance abusers, children or other mental health/intellectual disability services approved by the Department of Mental Health.

(w) Notwithstanding any other provision of law, to fingerprint and perform a criminal history record check on every employee or volunteer. Every employee or volunteer shall provide a valid current social security number and/or driver's license number that will be furnished to conduct the criminal history record 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.

(x) In general to take any action which will promote, either directly or indirectly, any and all of the foregoing purposes.

(2) The types of services established by the State Department of Mental Health that must be provided by the regional mental health/intellectual disability centers for certification by the department, and the minimum levels and standards for those services established by the department, shall be provided by the regional mental health/intellectual disability centers to children

when such services are appropriate for children, in the determination of the department.

SECTION 6. Section 41-21-87, Mississippi Code of 1972, is amended as follows:

41-21-87. (1) The director of either the treatment facility where the patient is committed or the treatment facility where the patient resides while awaiting admission to any other treatment facility may discharge any civilly committed patient upon filing his certificate of discharge with the clerk of the committing court, certifying that the patient, in his judgment, no longer poses a substantial threat of physical harm to himself or others.

(2) A director of a treatment facility specified in subsection (1) above may return any patient to the custody of the committing court upon providing seven (7) days' notice and upon filing his certificate of same as follows:

(a) When, in the judgment of the director, the patient may be treated in a less restrictive environment; however, treatment in such less restrictive environment shall be implemented within seven (7) days after notification of the court; or

(b) When, in the judgment of the director, adequate facilities or treatment are not available at the treatment facility.

(3) Except as provided in Section 41-21-88, no committing court shall enjoin or restrain any director of a treatment facility specified in subsection (1) above from discharging a patient under this section whose treating professionals have determined that the patient meets one (1) of the criteria for discharge as outlined in subsection (1) or (2) of this section. The director of the treatment facility where the patient is committed may transfer any civilly committed patient from one (1) facility operated directly by the Department of Mental Health to another as necessary for the welfare of that or other patients.

Upon receiving the director's certificate of transfer, the court shall enter an order accordingly.

(4) Within twenty-four (24) hours prior to the release or discharge of any civilly committed patient, other than a temporary pass due to sickness or death in the patient's family, the director shall give or cause to be given notice of such release or discharge to one (1) member of the patient's immediate family, provided the member of the patient's immediate family has signed the consent to release form provided under subsection (5) and has furnished in writing a current address and telephone number, if applicable, to the director for such purpose. The notice of release shall also be provided to any victim of such person and/or to any person to whom a restraining order has been entered to protect from such person. The notice to the family member shall include the psychiatric diagnosis of any chronic mental disorder incurred by the civilly committed patient and any medications provided or prescribed to the patient for such conditions.

(5) All providers of service in a treatment facility, whether in a community mental health/intellectual disability center, region or state psychiatric hospital, are authorized and directed to request a consent to release information from all patients which will allow that entity to involve the family in the patient's treatment. Such release form shall be developed by the Department of Mental Health and provided to all treatment facilities, community mental health/intellectual disability centers and state facilities. All such facilities shall request such a release of information upon the date of admission of the patient to the facility or at least by the time the patient is discharged.

(6) Each month the Department of Mental Health-operated facilities shall provide the directors of community mental health centers the names of all individuals who were discharged to their catchment area with referral for community-based services. The

department shall require community mental health care providers to report monthly the date that service(s) were initiated and type of service(s) initiated.

SECTION 7. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
March 27, 2011

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 28, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

4/26/11 12:02p