

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2567

BY: Senator(s) Clarke

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

14 **SECTION 1.** (1) On July 1, 2017, the Mississippi Department
15 of Mental Health shall be under the policy direction of the
16 Governor and shall retain all powers and duties as granted to the
17 former Mississippi Department of Mental Health or State Board of
18 Mental Health. Wherever the term "Mississippi Department of
19 Mental Health" or "State Board of Mental Health" appears in any
20 law or regulation, the same shall mean the Department of Mental
21 Health, under the policy direction of the Governor. The Executive
22 Director of the Department of Mental Health may assign to the



23 appropriate offices such powers and duties deemed appropriate to
24 carry out the lawful functions of the department.

25 (2) The Executive Director of the Department of Mental
26 Health shall be authorized to combine or abolish employee
27 positions as necessary to carry out the provisions of this act,
28 and the Executive Director is authorized to reorganize such
29 offices, services, programs or other activities so as to achieve
30 economy and efficiency and if he finds such action to be in the
31 public interest.

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

34 41-4-1. (1) The goal of the Rose Isabel Williams Mental
35 Health Reform Act of 2011 is to reform the current Mississippi
36 mental health delivery system so that necessary services, supports
37 and operational structures for all its citizens with mental
38 illness and/or alcohol and drug dependence and/or comorbidity,
39 whether children, youth or adults, are accessible and delivered
40 preferably in the communities where these citizens live. To
41 accomplish this goal, this act provides that initially certain
42 core services as defined in subsection (2) of this section should
43 be available to residents of each county in the state. These
44 services may be provided by community mental health/intellectual
45 disability centers. In order to determine what services are
46 available, the State Department of Mental Health, under the policy
47 direction of the Governor, is directed to survey the community



48 mental health/intellectual disability centers, and the community
49 mental health/intellectual disability centers are directed to
50 report what services they are currently providing in each county.
51 This act does not require any community mental health/intellectual
52 disability center to provide any service. This act is not
53 independent authority for any program not otherwise authorized.

54 (2) The * * * Department of Mental Health, under the policy
55 direction of the Governor, is authorized and empowered to
56 promulgate regulations to ensure that core adult mental health
57 services, child mental health services, intellectual/developmental
58 disability services, and substance abuse prevention and
59 treatment/rehabilitation services are provided throughout the
60 state through the regional mental health/intellectual disability
61 commissions and centers or through other providers. The * * *
62 Department of Mental Health is directed to give priority to crisis
63 services and crisis stabilization unit services provided
64 twenty-four (24) hours a day, seven (7) days a week, where trained
65 emergency-crisis response staff triage referrals and respond in a
66 timely and adequate manner to diffuse a current personal crisis
67 situation.

68 **SECTION 3.** Section 41-4-3, Mississippi Code of 1972, is
69 amended as follows:

70 41-4-3. (1) From and after July 1, 2017, there is created a
71 State Advisory Board * * * on Mental Health, referred to in this
72 chapter as "board," consisting of nine (9) members, to be



73 appointed by the Governor, with the advice and consent of the
74 Senate, each of whom shall be a qualified elector. One (1) member
75 shall be appointed from each congressional district as presently
76 constituted; and four (4) members shall be appointed from the
77 state at large, one (1) of whom shall be a licensed medical doctor
78 who is a psychiatrist, one (1) of whom shall hold a Ph.D. degree
79 and be a licensed clinical psychologist, one (1) of whom shall be
80 a licensed medical doctor, and one (1) of whom shall be a social
81 worker with experience in the mental health field.

82 No more than two (2) members of the board shall be appointed
83 from any one (1) congressional district as presently constituted.

84 Each member of the initial board shall serve for a term of
85 years represented by the number of his congressional district; two
86 (2) state-at-large members shall serve for a term of six (6)
87 years; two (2) state at large members shall serve for a term of
88 seven (7) years; subsequent appointments shall be for seven-year
89 terms and the Governor shall fill any vacancy for the unexpired
90 term.

91 The board shall elect a chairman whose term of office shall
92 be one (1) year and until his successor shall be elected.

93 (2) Each board member shall be entitled to a per diem as is
94 authorized by law and all actual and necessary expenses, including
95 mileage as provided by law, incurred in the discharge of official
96 duties.



97 (3) The board shall hold regular meetings quarterly and such
98 special meetings deemed necessary, except that no action shall be
99 taken unless there is present a quorum of at least five (5)
100 members.

101 (4) The board shall advise the Executive Director of the
102 Department of Mental Health, under the policy direction of the
103 Governor, regarding any regulation or matter relating to the
104 delivery of mental health services in the State of Mississippi.

105 **SECTION 4.** Section 41-4-5, Mississippi Code of 1972, is
106 amended as follows:

107 41-4-5. There is created the State Department of Mental
108 Health, herein referred to as "department," which shall consist of
109 four (4) or more divisions, among them the Division of
110 Intellectual Disabilities, the Division of Alcohol and Drug
111 Misuse, the Division of Mental Health, and the Division of
112 Administration, Planning and Coordination, and such other
113 divisions as the * * * Executive Director deems appropriate.

114 **SECTION 5.** Section 41-4-7, Mississippi Code of 1972, is
115 amended as follows:

116 41-4-7. The * * * Mississippi Department of Mental Health,
117 under the policy direction of the Governor, shall have the
118 following powers and duties:

119 (a) * * * The Governor shall appoint a full-time
120 Executive Director of the Department of Mental Health, with the
121 advice and consent of the Senate, who shall * * * serve at the



122 will and pleasure of the Governor. The * * * Executive Director
123 shall be a duly licensed physician with special interest and
124 competence in psychiatry, and shall possess a minimum of three (3)
125 years' experience in clinical and administrative psychiatry * * *,
126 or shall possess at least a master's degree or its equivalent, and
127 shall possess at least ten (10) years' administrative experience
128 in the field of mental health * * *;

129 (b) * * * The Executive Director of the Mississippi
130 Department of Mental Health shall appoint a medical director for
131 the department * * *. The medical director shall provide clinical
132 oversight in the implementation of evidence-based and best
133 practices; provide clinical leadership in the integration of
134 mental health, intellectual disability and addiction services with
135 community partners in the public and private sectors; and provide
136 oversight regarding standards of care. The medical director shall
137 serve at the will and pleasure of the * * * director, and will
138 undergo an annual review of job performance and future service to
139 the department;

140 (c) To cooperate with the Strategic Planning and Best
141 Practices Committee created in Section 41-4-10, Mississippi Code
142 of 1972, in establishing and implementing its state strategic
143 plan;

144 (d) To develop a strategic plan for the development of
145 services for persons with mental illness, persons with
146 developmental disabilities and other clients of the public mental



147 health system. Such strategic planning program shall require that
148 the board, acting through the Strategic Planning and Best
149 Practices Committee, perform the following functions respecting
150 the delivery of services:

151 (i) Establish measures for determining the
152 efficiency and effectiveness of the services specified in Section
153 41-4-1(2);

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

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

161 (iv) Recommending to the Legislature by January 1,
162 2014, any necessary additions, deletions or other changes
163 necessary to the services specified in Section 41-4-1(2);

164 (v) Implementing by July 1, 2012, a system of
165 performance measures for the services specified in Section
166 41-4-1(2);

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



170 (vii) Conducting any other activities necessary to
171 the evaluation and study of the services specified in Section
172 41-4-1(2);

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

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

186 (f) To supervise, coordinate and establish standards
187 for all operations and activities of the state related to mental
188 health and providing mental health services. Nothing in this
189 chapter shall preclude the services of a psychiatric/mental health
190 nurse practitioner in accordance with an established nurse
191 practitioner/physician protocol. A physician, licensed
192 psychologist, psychiatric/mental health nurse practitioner in
193 accordance with an established nurse practitioner/physician
194 protocol, physician assistant, licensed professional counselor,



195 licensed marriage and family therapists, or licensed clinical
196 social worker shall certify each client's record annually after
197 seeing the client in person or by telemedicine, and more often if
198 medically indicated by physically visiting the client and
199 certifying same in the record. The * * * department shall have
200 the authority to develop and implement all standards and plans and
201 shall have the authority to establish appropriate actions,
202 including financially punitive actions, to ensure enforcement of
203 these established standards, in accordance with the Administrative
204 Procedures Law (Section 25-43-1.101 et seq.). The regional
205 community mental health/intellectual disability centers shall
206 comply with all of the * * * department's established standards
207 that are applicable to those centers, and the * * * department may
208 withhold any state funds that otherwise would be allocated or paid
209 to any of those centers that does not comply with the * * *
210 department's established standards. This paragraph (f) shall
211 stand repealed on July 1, * * * 2018;

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

216 (h) To collect reasonable fees for its services;
217 however, if it is determined that a person receiving services is
218 unable to pay the total fee, the department shall collect any
219 amount such person is able to pay;



220 (i) To certify, coordinate and establish minimum
221 standards and establish minimum required services, as specified in
222 Section 41-4-1(2), for regional mental health and intellectual
223 disability commissions and other community service providers for
224 community or regional programs and services in adult mental
225 health, children and youth mental health, intellectual
226 disabilities, alcoholism, drug misuse, developmental disabilities,
227 compulsive gambling, addictive disorders and related programs
228 throughout the state. Such regional mental health and
229 intellectual disability commissions and other community service
230 providers shall, on or before July 1 of each year, submit an
231 annual operational plan to the State Department of Mental Health
232 for approval or disapproval based on the minimum standards and
233 minimum required services established by the department for
234 certification and itemize the services specified in Section
235 41-4-1(2). As part of the annual operation plan required by this
236 paragraph (i) submitted by any regional community mental health
237 center or by any other reasonable certification deemed acceptable
238 by the department, the community mental health center shall state
239 those services specified in Section 41-4-1(2) that it will provide
240 and also those services that it will not provide. If the
241 department finds deficiencies in the plan of any regional
242 commission or community service provider based on the minimum
243 standards and minimum required services established for
244 certification, the department shall give the regional commission



245 or community service provider a six-month probationary period to
246 bring its standards and services up to the established minimum
247 standards and minimum required services. After the six-month
248 probationary period, if the department determines that the
249 regional commission or community service provider still does not
250 meet the minimum standards and minimum required services
251 established for certification, the department may remove the
252 certification of the commission or provider and from and after
253 July 1, 2011, the commission or provider shall be ineligible for
254 state funds from Medicaid reimbursement or other funding sources
255 for those services. However, the department shall not mandate a
256 standard or service, or decertify a regional commission or
257 community service provider for not meeting a standard or service,
258 if the standard or service does not have funding appropriated by
259 the Legislature or have a state, federal or local funding source
260 identified by the department. No county shall be required to levy
261 millage to provide a mandated standard or service above the
262 minimum rate required by Section 41-19-39. After the six-month
263 probationary period, the department may identify an appropriate
264 community service provider to provide any core services in that
265 county that are not provided by a community mental health center.
266 However, the department shall not offer reimbursement or other
267 accommodations to a community service provider of core services
268 that were not offered to the decertified community mental health
269 center for the same or similar services. The * * * Department of



270 Mental Health shall promulgate rules and regulations necessary to
271 implement the provisions of this paragraph (i), in accordance with
272 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

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

283 (k) To implement best practices for all services
284 specified in Section 41-4-1(2), and to establish and implement all
285 other services delivered by the Department of Mental Health. To
286 carry out this responsibility, the * * * department shall require
287 the department to establish a division responsible for developing
288 best practices based on a comprehensive analysis of the mental
289 health environment to determine what the best practices for each
290 service are. In developing best practices, the * * * department
291 shall consider the cost and benefits associated with each practice
292 with a goal of implementing only those practices that are
293 cost-effective practices for service delivery. Such best
294 practices shall be utilized by the * * * department in



295 establishing performance standards and evaluations of the
296 community mental health centers' services required by paragraph
297 (d) of this section;

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

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

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

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

308 (p) To serve as the single state agency in receiving
309 and administering any and all funds available from any source for
310 the purpose of service delivery, training, research and education
311 in regard to all forms of mental illness, intellectual
312 disabilities, alcoholism, drug misuse and developmental
313 disabilities, unless such funds are specifically designated to a
314 particular agency or institution by the federal government, the
315 Mississippi Legislature or any other grantor;

316 (q) To establish mental health holding centers for the
317 purpose of providing short-term emergency mental health treatment,
318 places for holding persons awaiting commitment proceedings or
319 awaiting placement in a state mental health facility following



320 commitment, and for diverting placement in a state mental health
321 facility. These mental health holding facilities shall be readily
322 accessible, available statewide, and be in compliance with
323 emergency services' minimum standards. They shall be
324 comprehensive and available to triage and make appropriate
325 clinical disposition, including the capability to access inpatient
326 services or less restrictive alternatives, as needed, as
327 determined by medical staff. Such facility shall have medical,
328 nursing and behavioral services available on a
329 twenty-four-hour-a-day basis. The * * * department may provide
330 for all or part of the costs of establishing and operating the
331 holding centers in each district from such funds as may be
332 appropriated to the * * * department for such use, and may
333 participate in any plan or agreement with any public or private
334 entity under which the entity will provide all or part of the
335 costs of establishing and operating a holding center in any
336 district;

337 (r) To certify/license case managers, mental health
338 therapists, intellectual disability therapists, mental
339 health/intellectual disability program administrators, addiction
340 counselors and others as deemed appropriate by the * * *
341 department. Persons already professionally licensed by another
342 state board or agency are not required to be certified/licensed
343 under this section by the Department of Mental Health. The
344 department shall not use professional titles in its



345 certification/licensure process for which there is an independent
346 licensing procedure. Such certification/licensure shall be valid
347 only in the state mental health system, in programs funded and/or
348 certified by the Department of Mental Health and/or in programs
349 certified/licensed by the State Department of Health that are
350 operated by the state mental health system serving persons with
351 mental illness, an intellectual disability, a developmental
352 disability or addictions, and shall not be transferable;

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

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

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



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

371 (w) To survey statutory designations, building markers
372 and the names given to mental health/intellectual disability
373 facilities and proceedings in order to recommend deletion of
374 obsolete and offensive terminology relative to the mental
375 health/intellectual disability system. Based upon a
376 recommendation of the Executive Director, the * * * department
377 shall have the authority to name/rename any facility operated
378 under the auspices of the Department of Mental Health for the sole
379 purpose of deleting such terminology;

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

384 (y) To develop formal service delivery standards
385 designed to measure the quality of services delivered to community
386 clients, as well as the timeliness of services to community
387 clients provided by regional mental health/intellectual disability
388 commissions and other community services providers;

389 (z) To establish regional state offices to provide
390 mental health crisis intervention centers and services available
391 throughout the state to be utilized on a case-by-case emergency
392 basis. The regional services director, other staff and delivery



393 systems shall meet the minimum standards of the Department of
394 Mental Health;

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

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

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

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

414 (ee) To develop and implement state plans for the
415 purpose of assisting with the care and treatment of persons with
416 Alzheimer's disease and other dementia. This plan shall include
417 education and training of service providers, caregivers in the



418 home setting and others who deal with persons with Alzheimer's
419 disease and other dementia, and development of adult day care,
420 family respite care and counseling programs to assist families who
421 maintain persons with Alzheimer's disease and other dementia in
422 the home setting. No agency shall be required to provide any
423 services under this section until such time as sufficient funds
424 have been appropriated or otherwise made available by the
425 Legislature specifically for the purposes of the treatment of
426 persons with Alzheimer's and other dementia;

427 (ff) Working with the advice and consent of the
428 administration of Ellisville State School, to enter into
429 negotiations with the Economic Development Authority of Jones
430 County for the purpose of negotiating the possible exchange, lease
431 or sale of lands owned by Ellisville State School to the Economic
432 Development Authority of Jones County. It is the intent of the
433 Mississippi Legislature that such negotiations shall ensure that
434 the financial interest of the persons with an intellectual
435 disability served by Ellisville State School will be held
436 paramount in the course of these negotiations. The Legislature
437 also recognizes the importance of economic development to the
438 citizens of the State of Mississippi and Jones County, and
439 encourages fairness to the Economic Development Authority of Jones
440 County. Any negotiations proposed which would result in the
441 recommendation for exchange, lease or sale of lands owned by
442 Ellisville State School must have the approval of the State Board



443 of Mental Health. The * * * Department of Mental Health may and
444 has the final authority as to whether or not these negotiations
445 result in the exchange, lease or sale of the properties it
446 currently holds in trust for persons with an intellectual
447 disability served at Ellisville State School.

448 If the * * * Department of Mental Health authorizes the sale
449 of lands owned by Ellisville State School, as provided for under
450 this paragraph (ff), the monies derived from the sale shall be
451 placed into a special fund that is created in the State Treasury
452 to be known as the "Ellisville State School Client's Trust Fund."
453 The principal of the trust fund shall remain inviolate and shall
454 never be expended. Any interest earned on the principal may be
455 expended solely for the benefits of clients served at Ellisville
456 State School. The State Treasurer shall invest the monies of the
457 trust fund in any of the investments authorized for the
458 Mississippi Prepaid Affordable College Tuition Program under
459 Section 37-155-9, and those investments shall be subject to the
460 limitations prescribed by Section 37-155-9. Unexpended amounts
461 remaining in the trust fund at the end of a fiscal year shall not
462 lapse into the State General Fund, and any interest earned on
463 amounts in the trust fund shall be deposited to the credit of the
464 trust fund. The administration of Ellisville State School may use
465 any interest earned on the principal of the trust fund, upon
466 appropriation by the Legislature, as needed for services or
467 facilities by the clients of Ellisville State School. Ellisville



468 State School shall make known to the Legislature, through the
469 Legislative Budget Committee and the respective Appropriations
470 Committees of the House and Senate, its proposed use of interest
471 earned on the principal of the trust fund for any fiscal year in
472 which it proposes to make expenditures thereof. The State
473 Treasurer shall provide Ellisville State School with an annual
474 report on the Ellisville State School Client's Trust Fund to
475 indicate the total monies in the trust fund, interest earned
476 during the year, expenses paid from the trust fund and such other
477 related information.

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

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

489 (gg) Working with the advice and consent of the
490 administration of Boswell Regional Center, to enter into
491 negotiations with the Economic Development Authority of Simpson
492 County for the purpose of negotiating the possible exchange, lease



493 or sale of lands owned by Boswell Regional Center to the Economic
494 Development Authority of Simpson County. It is the intent of the
495 Mississippi Legislature that such negotiations shall ensure that
496 the financial interest of the persons with an intellectual
497 disability served by Boswell Regional Center will be held
498 paramount in the course of these negotiations. The Legislature
499 also recognizes the importance of economic development to the
500 citizens of the State of Mississippi and Simpson County, and
501 encourages fairness to the Economic Development Authority of
502 Simpson County. Any negotiations proposed which would result in
503 the recommendation for exchange, lease or sale of lands owned by
504 Boswell Regional Center must have the approval of the State Board
505 of Mental Health. The * * * Department of Mental Health may and
506 has the final authority as to whether or not these negotiations
507 result in the exchange, lease or sale of the properties it
508 currently holds in trust for persons with an intellectual
509 disability served at Boswell Regional Center. In any such
510 exchange, lease or sale of such lands owned by Boswell Regional
511 Center, title to all minerals, oil and gas on such lands shall be
512 reserved, together with the right of ingress and egress to remove
513 same, whether such provisions be included in the terms of any such
514 exchange, lease or sale or not.

515 If the * * * Department of Mental Health authorizes the sale
516 of lands owned by Boswell Regional Center, as provided for under
517 this paragraph (gg), the monies derived from the sale shall be



518 placed into a special fund that is created in the State Treasury
519 to be known as the "Boswell Regional Center Client's Trust Fund."
520 The principal of the trust fund shall remain inviolate and shall
521 never be expended. Any earnings on the principal may be expended
522 solely for the benefits of clients served at Boswell Regional
523 Center. The State Treasurer shall invest the monies of the trust
524 fund in any of the investments authorized for the Mississippi
525 Prepaid Affordable College Tuition Program under Section 37-155-9,
526 and those investments shall be subject to the limitations
527 prescribed by Section 37-155-9. Unexpended amounts remaining in
528 the trust fund at the end of a fiscal year shall not lapse into
529 the State General Fund, and any earnings on amounts in the trust
530 fund shall be deposited to the credit of the trust fund. The
531 administration of Boswell Regional Center may use any earnings on
532 the principal of the trust fund, upon appropriation by the
533 Legislature, as needed for services or facilities by the clients
534 of Boswell Regional Center. Boswell Regional Center shall make
535 known to the Legislature, through the Legislative Budget Committee
536 and the respective Appropriations Committees of the House and
537 Senate, its proposed use of the earnings on the principal of the
538 trust fund for any fiscal year in which it proposes to make
539 expenditures thereof. The State Treasurer shall provide Boswell
540 Regional Center with an annual report on the Boswell Regional
541 Center Client's Trust Fund to indicate the total monies in the
542 trust fund, interest and other income earned during the year,



543 expenses paid from the trust fund and such other related
544 information.

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

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

556 (hh) Notwithstanding any other section of the code, the
557 Board of Mental Health shall be authorized to fingerprint and
558 perform a criminal history record check on every employee or
559 volunteer. Every employee and volunteer shall provide a valid
560 current social security number and/or driver's license number
561 which shall be furnished to conduct the criminal history record
562 check. If no disqualifying record is identified at the state
563 level, fingerprints shall be forwarded to the Federal Bureau of
564 Investigation for a national criminal history record check;

565 (ii) The Department of Mental Health shall have the
566 authority for the development of a consumer friendly single point
567 of intake and referral system within its service areas for persons



568 with mental illness, an intellectual disability, developmental
569 disabilities or alcohol or substance abuse who need assistance
570 identifying or accessing appropriate services. The department
571 will develop and implement a comprehensive evaluation procedure
572 ensuring that, where appropriate, the affected person or their
573 parent or legal guardian will be involved in the assessment and
574 planning process. The department, as the point of intake and as
575 service provider, shall have the authority to determine the
576 appropriate institutional, hospital or community care setting for
577 persons who have been diagnosed with mental illness, an
578 intellectual disability, developmental disabilities and/or alcohol
579 or substance abuse, and may provide for the least restrictive
580 placement if the treating professional believes such a setting is
581 appropriate, if the person affected or their parent or legal
582 guardian wants such services, and if the department can do so with
583 a reasonable modification of the program without creating a
584 fundamental alteration of the program. The least restrictive
585 setting could be an institution, hospital or community setting,
586 based upon the needs of the affected person or their parent or
587 legal guardian;

588 (jj) To have the sole power and discretion to enter
589 into, sign, execute and deliver long-term or multiyear leases of
590 real and personal property owned by the Department of Mental
591 Health to and from other state and federal agencies and private
592 entities deemed to be in the public's best interest. Any monies



593 derived from such leases shall be deposited into the funds of the
594 Department of Mental Health for its exclusive use. Leases to
595 private entities shall be approved by the Department of Finance
596 and Administration and all leases shall be filed with the
597 Secretary of State;

598 (kk) To certify and establish minimum standards and
599 minimum required services for county facilities used for housing,
600 feeding and providing medical treatment for any person who has
601 been involuntarily ordered admitted to a treatment center by a
602 court of competent jurisdiction. The minimum standard for the
603 initial assessment of those persons being housed in county
604 facilities is for the assessment to be performed by a physician,
605 preferably a psychiatrist, or by a nurse practitioner, preferably
606 a psychiatric nurse practitioner. If the department finds
607 deficiencies in any such county facility or its provider based on
608 the minimum standards and minimum required services established
609 for certification, the department shall give the county or its
610 provider a six-month probationary period to bring its standards
611 and services up to the established minimum standards and minimum
612 required services. After the six-month probationary period, if
613 the department determines that the county or its provider still
614 does not meet the minimum standards and minimum required services,
615 the department may remove the certification of the county or
616 provider and require the county to contract with another county
617 having a certified facility to hold those persons for that period



618 of time pending transportation and admission to a state treatment
619 facility. Any cost incurred by a county receiving an
620 involuntarily committed person from a county with a decertified
621 holding facility shall be reimbursed by the home county to the
622 receiving county.

623 **SECTION 6.** Section 41-4-9, Mississippi Code of 1972, is
624 amended as follows:

625 41-4-9. The * * * Department of Mental Health is hereby
626 authorized and directed to create advisory councils to assist
627 the * * * department in the performance and discharge of their
628 duties.

629 **SECTION 7.** Section 41-4-10, Mississippi Code of 1972, is
630 amended as follows:

631 41-4-10. There is hereby established a Strategic Planning
632 and Best Practices Committee (committee) for the purpose of
633 improving and coordinating mental health services in the state.
634 The committee shall consist of eleven (11) members appointed by
635 the Governor as follows:

636 (a) Two (2) members * * * representing the Department
637 of Mental Health;

638 (b) The Chairman of the Department of Psychiatry at the
639 University of Mississippi Medical Center;

640 (c) The Executive Director of the Division of Medicaid
641 in the Office of the Governor;



642 (d) Two (2) directors of community mental health
643 centers that are members of the Mississippi Association of
644 Community Mental Health Centers * * *;

645 (e) One (1) representative of a nonprofit mental health
646 advocacy group;

647 (f) One (1) consumer or family member of a consumer of
648 mental health services;

649 (g) One (1) representative from a separate, private,
650 nonprofit provider of a continuum of mental health services;

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

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

657 The committee shall meet and elect a chairman, who shall not
658 be * * * an employee of the Department of Mental Health or the
659 State Board of Health. The committee shall meet upon the call of
660 the chair.

661 The Lieutenant Governor may designate one (1) Senator and the
662 Speaker of the House of Representatives may designate one (1)
663 Representative to attend any meeting of the Strategic Planning and
664 Best Practices Committee. The appointing authorities may
665 designate alternate members from their respective houses to serve



666 when the regular designees are unable to attend the meetings of
667 the committee.

668 The committee shall work with the * * * Department of Mental
669 Health and the Regional Community Mental Health and Intellectual
670 Disability Commissions to produce the state strategic plan as
671 required in Section 41-4-7(d).

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

683 This section shall stand repealed from and after July
684 1, * * * 2018.

685 **SECTION 8.** Section 43-13-107, Mississippi Code of 1972, is
686 amended as follows:

687 43-13-107. (1) The Division of Medicaid is created in the
688 Office of the Governor and established to administer this article
689 and perform such other duties as are prescribed by law.



690 (2) (a) The Governor shall appoint a full-time Executive
691 Director, with the advice and consent of the Senate, who shall be
692 either (i) * * * a person holding a graduate degree in medical
693 care administration, public health, hospital administration, or
694 the equivalent, or (* * *ii) a person holding a bachelor's degree
695 in business administration or hospital administration, with at
696 least ten (10) years' experience in management-level
697 administration of Medicaid programs. The Executive Director shall
698 be the official secretary and legal custodian of the records of
699 the division; shall be the agent of the division for the purpose
700 of receiving all service of process, summons and notices directed
701 to the division; shall perform such other duties as the Governor
702 may prescribe from time to time; and shall perform all other
703 duties that are now or may be imposed upon him or her by law.

704 (b) The Executive Director shall serve at the will and
705 pleasure of the Governor.

706 (c) The Executive Director shall, before entering upon
707 the discharge of the duties of the office, take and subscribe to
708 the oath of office prescribed by the Mississippi Constitution and
709 shall file the same in the Office of the Secretary of State, and
710 shall execute a bond in some surety company authorized to do
711 business in the state in the penal sum of One Hundred Thousand
712 Dollars (\$100,000.00), conditioned for the faithful and impartial
713 discharge of the duties of the office. The premium on the bond



714 shall be paid as provided by law out of funds appropriated to the
715 Division of Medicaid for contractual services.

716 (d) The Executive Director, with the approval of the
717 Governor and subject to the rules and regulations of the State
718 Personnel Board, shall employ such professional, administrative,
719 stenographic, secretarial, clerical and technical assistance as
720 may be necessary to perform the duties required in administering
721 this article and fix the compensation for those persons, all in
722 accordance with a state merit system meeting federal requirements.
723 When the salary of the executive director is not set by law, that
724 salary shall be set by the State Personnel Board. No employees of
725 the Division of Medicaid shall be considered to be staff members
726 of the immediate Office of the Governor; however, Section
727 25-9-107(c) (xv) shall apply to the executive director and other
728 administrative heads of the division.

729 (3) (a) There is established a Medical Care Advisory
730 Committee, which shall be the committee that is required by
731 federal regulation to advise the Division of Medicaid about health
732 and medical care services.

733 (b) The advisory committee shall consist of not less
734 than eleven (11) members, as follows:

735 (i) The Governor shall appoint five (5) members,
736 one (1) from each congressional district and one (1) from the
737 state at large;



738 (ii) The Lieutenant Governor shall appoint three
739 (3) members, one (1) from each Supreme Court district;

740 (iii) The Speaker of the House of Representatives
741 shall appoint three (3) members, one (1) from each Supreme Court
742 district.

743 All members appointed under this paragraph shall either be
744 health care providers or consumers of health care services. One
745 (1) member appointed by each of the appointing authorities shall
746 be a board-certified physician.

747 (c) The respective Chairmen of the House Medicaid
748 Committee, the House Public Health and Human Services Committee,
749 the House Appropriations Committee, the Senate Public Health and
750 Welfare Committee and the Senate Appropriations Committee, or
751 their designees, two (2) members of the State Senate appointed by
752 the Lieutenant Governor and one (1) member of the House of
753 Representatives appointed by the Speaker of the House, shall serve
754 as ex officio nonvoting members of the advisory committee.

755 (d) In addition to the committee members required by
756 paragraph (b), the advisory committee shall consist of such other
757 members as are necessary to meet the requirements of the federal
758 regulation applicable to the advisory committee, who shall be
759 appointed as provided in the federal regulation.

760 (e) The chairmanship of the advisory committee shall be
761 elected by the voting members of the committee annually and shall
762 not serve more than two (2) consecutive years as chairman.



763 (f) The members of the advisory committee specified in
764 paragraph (b) shall serve for terms that are concurrent with the
765 terms of members of the Legislature, and any member appointed
766 under paragraph (b) may be reappointed to the advisory committee.
767 The members of the advisory committee specified in paragraph (b)
768 shall serve without compensation, but shall receive reimbursement
769 to defray actual expenses incurred in the performance of committee
770 business as authorized by law. Legislators shall receive per diem
771 and expenses, which may be paid from the contingent expense funds
772 of their respective houses in the same amounts as provided for
773 committee meetings when the Legislature is not in session.

774 (g) The advisory committee shall meet not less than
775 quarterly, and advisory committee members shall be furnished
776 written notice of the meetings at least ten (10) days before the
777 date of the meeting.

778 (h) The executive director shall submit to the advisory
779 committee all amendments, modifications and changes to the state
780 plan for the operation of the Medicaid program, for review by the
781 advisory committee before the amendments, modifications or changes
782 may be implemented by the division.

783 (i) The advisory committee, among its duties and
784 responsibilities, shall:

785 (i) Advise the division with respect to
786 amendments, modifications and changes to the state plan for the
787 operation of the Medicaid program;



788 (ii) Advise the division with respect to issues
789 concerning receipt and disbursement of funds and eligibility for
790 Medicaid;

791 (iii) Advise the division with respect to
792 determining the quantity, quality and extent of medical care
793 provided under this article;

794 (iv) Communicate the views of the medical care
795 professions to the division and communicate the views of the
796 division to the medical care professions;

797 (v) Gather information on reasons that medical
798 care providers do not participate in the Medicaid program and
799 changes that could be made in the program to encourage more
800 providers to participate in the Medicaid program, and advise the
801 division with respect to encouraging physicians and other medical
802 care providers to participate in the Medicaid program;

803 (vi) Provide a written report on or before
804 November 30 of each year to the Governor, Lieutenant Governor and
805 Speaker of the House of Representatives.

806 (4) (a) There is established a Drug Use Review Board, which
807 shall be the board that is required by federal law to:

808 (i) Review and initiate retrospective drug use,
809 review including ongoing periodic examination of claims data and
810 other records in order to identify patterns of fraud, abuse, gross
811 overuse, or inappropriate or medically unnecessary care, among



812 physicians, pharmacists and individuals receiving Medicaid
813 benefits or associated with specific drugs or groups of drugs.

814 (ii) Review and initiate ongoing interventions for
815 physicians and pharmacists, targeted toward therapy problems or
816 individuals identified in the course of retrospective drug use
817 reviews.

818 (iii) On an ongoing basis, assess data on drug use
819 against explicit predetermined standards using the compendia and
820 literature set forth in federal law and regulations.

821 (b) The board shall consist of not less than twelve
822 (12) members appointed by the Governor, or his designee.

823 (c) The board shall meet at least quarterly, and board
824 members shall be furnished written notice of the meetings at least
825 ten (10) days before the date of the meeting.

826 (d) The board meetings shall be open to the public,
827 members of the press, legislators and consumers. Additionally,
828 all documents provided to board members shall be available to
829 members of the Legislature in the same manner, and shall be made
830 available to others for a reasonable fee for copying. However,
831 patient confidentiality and provider confidentiality shall be
832 protected by blinding patient names and provider names with
833 numerical or other anonymous identifiers. The board meetings
834 shall be subject to the Open Meetings Act (Sections 25-41-1
835 through 25-41-17). Board meetings conducted in violation of this
836 section shall be deemed unlawful.



837 (5) (a) There is established a Pharmacy and Therapeutics
838 Committee, which shall be appointed by the Governor, or his
839 designee.

840 (b) The committee shall meet as often as needed to
841 fulfill its responsibilities and obligations as set forth in this
842 section, and committee members shall be furnished written notice
843 of the meetings at least ten (10) days before the date of the
844 meeting.

845 (c) The committee meetings shall be open to the public,
846 members of the press, legislators and consumers. Additionally,
847 all documents provided to committee members shall be available to
848 members of the Legislature in the same manner, and shall be made
849 available to others for a reasonable fee for copying. However,
850 patient confidentiality and provider confidentiality shall be
851 protected by blinding patient names and provider names with
852 numerical or other anonymous identifiers. The committee meetings
853 shall be subject to the Open Meetings Act (Sections 25-41-1
854 through 25-41-17). Committee meetings conducted in violation of
855 this section shall be deemed unlawful.

856 (d) After a thirty-day public notice, the executive
857 director, or his or her designee, shall present the division's
858 recommendation regarding prior approval for a therapeutic class of
859 drugs to the committee. However, in circumstances where the
860 division deems it necessary for the health and safety of Medicaid
861 beneficiaries, the division may present to the committee its



862 recommendations regarding a particular drug without a thirty-day
863 public notice. In making that presentation, the division shall
864 state to the committee the circumstances that precipitate the need
865 for the committee to review the status of a particular drug
866 without a thirty-day public notice. The committee may determine
867 whether or not to review the particular drug under the
868 circumstances stated by the division without a thirty-day public
869 notice. If the committee determines to review the status of the
870 particular drug, it shall make its recommendations to the
871 division, after which the division shall file those
872 recommendations for a thirty-day public comment under Section
873 25-43-7(1).

874 (e) Upon reviewing the information and recommendations,
875 the committee shall forward a written recommendation approved by a
876 majority of the committee to the executive director, or his or her
877 designee. The decisions of the committee regarding any
878 limitations to be imposed on any drug or its use for a specified
879 indication shall be based on sound clinical evidence found in
880 labeling, drug compendia, and peer reviewed clinical literature
881 pertaining to use of the drug in the relevant population.

882 (f) Upon reviewing and considering all recommendations
883 including recommendations of the committee, comments, and data,
884 the executive director shall make a final determination whether to
885 require prior approval of a therapeutic class of drugs, or modify



886 existing prior approval requirements for a therapeutic class of
887 drugs.

888 (g) At least thirty (30) days before the executive
889 director implements new or amended prior authorization decisions,
890 written notice of the executive director's decision shall be
891 provided to all prescribing Medicaid providers, all Medicaid
892 enrolled pharmacies, and any other party who has requested the
893 notification. However, notice given under Section 25-43-7(1) will
894 substitute for and meet the requirement for notice under this
895 subsection.

896 (h) Members of the committee shall dispose of matters
897 before the committee in an unbiased and professional manner. If a
898 matter being considered by the committee presents a real or
899 apparent conflict of interest for any member of the committee,
900 that member shall disclose the conflict in writing to the
901 committee chair and recuse himself or herself from any discussions
902 and/or actions on the matter.

903 **SECTION 9.** This act shall take effect and be in force from
904 and after July 1, 2017.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF MENTAL
2 HEALTH SHALL BE UNDER THE POLICY DIRECTION OF THE GOVERNOR; TO
3 PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT
4 OF MENTAL HEALTH SHALL BE APPOINTED BY AND SERVE AT THE WILL AND
5 PLEASURE OF THE GOVERNOR AND TO PROVIDE THAT THE EXECUTIVE
6 DIRECTOR SHALL ESTABLISH THE ORGANIZATIONAL STRUCTURE OF THE



7 DEPARTMENT; TO PROVIDE THAT THE STATE BOARD OF MENTAL HEALTH SHALL
8 BE AN ADVISORY BOARD TO THE DEPARTMENT; TO AMEND SECTIONS 41-4-1,
9 41-4-3, 41-4-5, 41-4-7, 41-4-9 AND 41-4-10, MISSISSIPPI CODE OF
10 1972, IN CONFORMITY; TO AMEND SECTION 43-13-107, MISSISSIPPI CODE
11 OF 1972, TO PROVIDE FOR THE QUALIFICATIONS FOR THE EXECUTIVE
12 DIRECTOR OF THE DIVISION OF MEDICAID; AND FOR RELATED PURPOSES.

