

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2373

1 AN ACT TO AMEND SECTION 41-13-35 AND TO CODIFY SECTION
2 41-13-37, MISSISSIPPI CODE OF 1972, TO ESTABLISH AND AUTHORIZE A
3 PROGRAM OF PAID EDUCATIONAL LEAVE FOR HOSPITAL EMPLOYEES; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-13-35, Mississippi Code of 1972, is
7 amended as follows:

8 41-13-35. (1) The board of trustees of any community
9 hospital shall have full authority to appoint an administrator,
10 who shall not be a member of the board of trustees, and to
11 delegate reasonable authority to such administrator for the
12 operation and maintenance of such hospital and all property and
13 facilities otherwise appertaining thereto.

14 (2) The board of trustees shall have full authority to
15 select from its members, officers and committees and, by
16 resolution or through the board bylaws, to delegate to such
17 officers and committees reasonable authority to carry out and
18 enforce the powers and duties of the board of trustees during the
19 interim periods between regular meetings of the board of trustees;
20 provided, however, that any such action taken by an officer or
21 committee shall be subject to review by the board, and actions may
22 be withdrawn or nullified at the next subsequent meeting of the
23 board of trustees if the action is in excess of delegated
24 authority.

25 (3) The board of trustees shall be responsible for governing
26 the community hospital under its control and shall make and
27 enforce staff and hospital bylaws and/or rules and regulations
28 necessary for the administration, government, maintenance and/or



29 expansion of such hospitals. The board of trustees shall keep
30 minutes of its official business and shall comply with Section
31 41-9-68.

32 (4) The decisions of said board of trustees of the community
33 hospital shall be valid and binding unless expressly prohibited by
34 applicable statutory or constitutional provisions.

35 (5) The power of the board of trustees shall specifically
36 include, but not be limited to, the following authority:

37 (a) To deposit and invest funds of the community
38 hospital in accordance with Section 27-105-365;

39 (b) To establish such equitable wage and salary
40 programs and other employment benefits as may be deemed expedient
41 or proper, and in so doing, to expend reasonable funds for such
42 employee salary and benefits. Allowable employee programs shall
43 specifically include but not be limited to, medical benefit, life,
44 accidental death and dismemberment, disability, retirement and
45 other employee coverage plans. The hospital may offer and fund
46 such programs directly or by contract with any third party and
47 shall be authorized to take all actions necessary to implement,
48 administer and operate such plans, including payroll deductions
49 for such plans;

50 (c) To authorize employees to attend and to pay actual
51 expenses incurred by employees while engaged in hospital business
52 or in attending recognized educational or professional meetings;

53 (d) To enter into loan or scholarship agreements with
54 employees or students to provide educational assistance where such
55 student or employee agrees to work for a stipulated period of time
56 for the hospital;

57 (e) To devise and implement employee incentive
58 programs;

59 (f) To recruit and financially assist physicians and
60 other health care practitioners in establishing, or relocating
61 practices within the service area of the community hospital



62 including, without limitation, direct and indirect financial
63 assistance, loan agreements, agreements guaranteeing minimum
64 incomes for a stipulated period from opening of the practice and
65 providing free office space or reduced rental rates for office
66 space where such recruitment would directly benefit the community
67 hospital and/or the health and welfare of the citizens of the
68 service area;

69 (g) To contract by way of lease, lease-purchase or
70 otherwise, with any agency, department or other office of
71 government or any individual, partnership, corporation, owner,
72 other board of trustees, or other health care facility, for the
73 providing of property, equipment or services by or to the
74 community hospital or other entity or regarding any facet of the
75 construction, management, funding or operation of the community
76 hospital or any division or department thereof, or any related
77 activity, including, without limitation, shared management
78 expertise or employee insurance and retirement programs, and to
79 terminate said contracts when deemed in the best interests of the
80 community hospital;

81 (h) To file suit on behalf of the community hospital to
82 enforce any right or claims accruing to the hospital and to defend
83 and/or settle claims against the community hospital and/or its
84 board of trustees;

85 (i) To sell or otherwise dispose of any chattel
86 property of the community hospital by any method deemed
87 appropriate by the board where such disposition is consistent with
88 the hospital purposes or where such property is deemed by the
89 board to be surplus or otherwise unneeded;

90 (j) To let contracts for the construction, remodeling,
91 expansion or acquisition, by lease or purchase, of hospital or
92 health care facilities, including real property, within the
93 service area for community hospital purposes where such may be
94 done with operational funds without encumbrancing the general



95 funds of the county or municipality, provided that any contract
96 for the purchase of real property must be ratified by the owner;

97 (k) To borrow money and enter other financing
98 arrangements for community hospital and related purposes and to
99 grant security interests in hospital equipment and to pledge a
100 percentage of hospital revenues as security for such financings
101 where needed; provided that the owner shall specify by resolution
102 the maximum borrowing authority and maximum percent of revenue
103 which may be pledged by the board of trustees during any given
104 fiscal year;

105 (l) To expend hospital funds for public relations or
106 advertising programs;

107 (m) To offer the following inpatient and outpatient
108 services, after complying with applicable health planning,
109 licensure statutes and regulations, whether or not heretofore
110 offered by such hospital or other similar hospitals in this state
111 and whether or not heretofore authorized to be offered, long-term
112 care, extended care, home care, after-hours clinic services,
113 ambulatory surgical clinic services, preventative health care
114 services including wellness services, health education,
115 rehabilitation and diagnostic and treatment services; to promote,
116 develop, operate and maintain a center providing care or
117 residential facilities for the aged, convalescent or handicapped;
118 and to promote, develop and institute any other services having an
119 appropriate place in the operation of a hospital offering complete
120 community health care;

121 (n) To promote, develop, acquire, operate and maintain
122 on a nonprofit basis, or on a profit basis if the community
123 hospital's share of profits is used solely for community hospital
124 and related purposes in accordance with this chapter, either
125 separately or jointly with one or more other hospitals or
126 health-related organizations, facilities and equipment for
127 providing goods, services and programs for hospitals, other health



128 care providers, and other persons or entities in need of such
129 goods, services and programs and, in doing so, to provide for
130 contracts of employment or contracts for services and ownership of
131 property on terms that will protect the public interest;

132 (o) To establish and operate medical offices, child
133 care centers, wellness or fitness centers and other facilities and
134 programs which the board determines are appropriate in the
135 operation of a community hospital for the benefit of its
136 employees, personnel and/or medical staff which shall be operated
137 as an integral part of the hospital and which may, in the
138 direction of the board of trustees, be offered to the general
139 public. If such programs are not established in existing
140 facilities or constructed on real estate previously acquired by
141 the owners, the board of trustees shall also have authority to
142 acquire, by lease or purchase, such facilities and real property
143 within the service area, whether or not adjacent to existing
144 facilities, provided that any contract for the purchase of real
145 property shall be ratified by the owner. The trustees shall lease
146 any such medical offices to members of the medical staff at rates
147 deemed appropriate and may, in its discretion, establish rates to
148 be paid for the use of other facilities or programs by its
149 employees or personnel or members of the public whom the trustees
150 may determine may properly use such other facilities or programs;

151 (p) Provide, at its discretion, ambulance service
152 and/or to contract with any third party, public or private, for
153 the providing of such service;

154 (q) Establish a fair and equitable system for the
155 billing of patients for care or users of services received through
156 the community hospital, which in the exercise of the board of
157 trustees' prudent fiscal discretion, may allow for rates to be
158 classified according to the potential usage by an identified group
159 or groups of patients of the community hospital's services and may
160 allow for standard discounts where the discount is designed to



161 reduce the operating costs or increase the revenues of the
162 community hospital. Such billing system may also allow for the
163 payment of charges by means of a credit card or similar device and
164 allow for payment of administrative fees as may be regularly
165 imposed by a banking institution or other credit service
166 organization for the use of such cards;

167 (r) To establish as an organizational part of the
168 hospital or to aid in establishing as a separate entity from the
169 hospital, hospital auxiliaries designed to aid the hospital, its
170 patients, and/or families and visitors of patients, and when the
171 auxiliary is established as a separate entity from the hospital,
172 the board of trustees may cooperate with the auxiliary in its
173 operations as the board of trustees deems appropriate; * * *

174 (s) To make any agreements or contracts with the
175 federal government or any agency thereof, the State of Mississippi
176 or any agency thereof, and any county, city, town, supervisors
177 district or election district within this state, jointly or
178 separately, for the maintenance of charity facilities; and

179 (t) To develop a paid educational leave program for the
180 study of certain health care occupations, including a licensed
181 practical nurse, registered nurse, nurse practitioner, speech
182 pathologist, occupational therapist, physical therapist and other
183 health care occupations by any employee who works at the community
184 hospital and who declares an intention to work in such respective
185 health care occupation in the same hospital in which the employee
186 was working when granted educational leave, for a minimum period
187 of time after graduation in accordance with Section 41-13-37.

188 (6) No board of trustees of any community hospital may
189 accept any grant of money or other thing of value from any
190 not-for-profit or for-profit organization established for the
191 purpose of supporting health care in the area served by the
192 facility unless two-thirds (2/3) of the trustees vote to accept
193 the grant.



194 (7) No board of trustees, individual trustee or any other
195 person who is an agent or servant of the trustees of any community
196 hospital shall have any personal financial interest in any
197 not-for-profit or for-profit organization which, regardless of its
198 stated purpose of incorporation, provides assistance in the form
199 of grants of money or property to community hospitals or provides
200 services to community hospitals in the form of performance of
201 functions normally associated with the operations of a hospital.

202 **SECTION 2.** The following shall be codified as Section
203 41-13-37, Mississippi Code of 1972:

204 41-13-37. (1) A hospital may grant paid educational leave
205 to those applicants it deems qualified therefor, upon such terms
206 and conditions as it may impose and as provided for in this
207 section. In order to be eligible for paid educational leave, an
208 applicant must:

209 (a) Be working at the sponsoring hospital at the time
210 of application;

211 (b) Attend any college or school approved and
212 designated by the sponsoring hospital; and

213 (c) Agree to work in a health care occupation as a
214 licensed practical nurse, registered nurse, nurse practitioner,
215 speech pathologist, occupational therapist, physical therapist or
216 other health care professional in the sponsoring hospital for a
217 period of time equivalent to the period of time for which the
218 applicant receives paid educational leave compensation, calculated
219 to the nearest whole month, but in no event less than two (2)
220 years.

221 (2) Before being granted paid educational leave, each
222 applicant shall enter into a contract with the sponsoring hospital
223 agreeing to the terms and conditions upon which the paid
224 educational leave shall be granted. The contract shall include
225 such terms and provisions necessary to carry out the full purpose
226 and intent of this section. The contract shall be signed by the



227 administrator of the sponsoring hospital and the recipient of paid
228 educational leave compensation. If the recipient is a minor, his
229 minority disabilities shall be removed by a chancery court of
230 competent jurisdiction before the contract is signed.

231 (3) The sponsoring hospital shall have the authority to
232 cancel any contract made between it and any recipient for paid
233 educational leave upon such cause being deemed sufficient by the
234 administrator of such hospital.

235 (4) The sponsoring hospital is vested with full and complete
236 authority and power to sue in its own name any recipient for any
237 balance due such hospital on any such uncompleted contract. The
238 sponsoring hospital may contract with a collection agency or
239 banking institution for collection of any balance due such
240 hospital from any recipient. The sponsoring hospital and its
241 employees and, if applicable, its board of trustees, are immune
242 from any suit brought in law or equity for actions taken by the
243 collection agency or banking institution incidental to or arising
244 from their performance under the contract. The sponsoring
245 hospital, collection agency and banking institution may negotiate
246 for the payment of a sum that is less than full payment in order
247 to satisfy any balance the recipient owes.

248 (5) Failure to meet the terms of an educational loan
249 contract shall be grounds for revocation of the professional
250 license which was earned through the paid educational leave
251 compensation granted under this section.

252 (6) A finding by the sponsoring hospital of a default by the
253 recipient shall be a finding of unprofessional conduct and
254 therefore, a basis for the revocation of the professional license
255 which was obtained through the educational leave program.

256 (7) Notice of pending default status, the consequences of a
257 default and the hearing to determine the pending default status
258 shall be mailed by the sponsoring hospital to the recipient at the
259 last known address.



260 (8) The sponsoring hospital shall conduct a hearing of
261 pending default status, make a final determination and, if
262 appropriate, issue a Finding of Default.

263 (9) Recipients may appear at the hearing of pending default
264 status, either personally or through counsel, or both, and produce
265 and cross-examine witnesses or evidence in the recipient's behalf.
266 The procedure of the hearing shall not be bound by the Mississippi
267 Rules of Civil Procedure and Evidence.

268 (10) If at such hearing a recipient is found to be in
269 default, a copy of the Finding of Default shall be forwarded to
270 the appropriate licensing agency.

271 (11) Appeals from a Finding of Default made by the
272 sponsoring hospital shall be to the circuit court of the county in
273 which such hospital is located. Actions taken by the appropriate
274 licensing agency in revoking a license when required by this
275 section are not actions from which an appeal may be taken under
276 the general licensing and disciplinary provisions applicable to
277 the licensing agency.

278 (12) Rules and regulations governing the hearing of pending
279 default status and other applicable matters shall be promulgated
280 by the sponsoring hospital.

281 (13) A license which has been revoked pursuant to this
282 section shall be reinstated upon a showing of proof that the
283 recipient is no longer in default.

284 (14) Any recipient who is granted paid educational leave by
285 a hospital shall be compensated by such sponsoring hospital during
286 the time the recipient is in school, at the rate of pay received
287 by a nurse's aide employed by such hospital. All educational
288 leave compensation received by the recipient while in school shall
289 be considered earned conditioned upon the fulfillment of the terms
290 and obligations of the educational leave contract and this
291 section. However, no recipient of full-time educational leave
292 shall accrue personal or major medical leave while the recipient



293 is on paid educational leave. Recipients of paid educational
294 leave shall be responsible for their individual costs of tuition
295 and books. Paid educational leave shall be granted only upon the
296 following conditions:

297 (a) The recipient shall fulfill his or her obligation
298 under the contract with the sponsoring hospital by working as a
299 licensed practical nurse, registered nurse, nurse practitioner,
300 speech pathologist, occupational therapist, physical therapist or
301 other health care professional. The total compensation that the
302 recipient was paid while on educational leave shall be considered
303 as unconditionally earned on an annual pro rata basis for each
304 year of service rendered under the educational leave contract as a
305 health care professional in the sponsoring hospital.

306 (b) If the recipient does not work as a licensed
307 practical nurse, registered nurse, nurse practitioner, speech
308 pathologist, occupational therapist, physical therapist or other
309 health care professional in the sponsoring hospital for the period
310 required under this section, the recipient shall be liable for
311 repayment on demand of the remaining portion of the compensation
312 that the recipient was paid while on paid educational leave which
313 has not been unconditionally earned, with interest accruing at ten
314 percent (10%) per annum from the recipient's date of graduation or
315 the date that the recipient last worked at the sponsoring
316 hospital, whichever is the later date. In addition, there shall
317 be included in any contract for paid educational leave a provision
318 for liquidated damages equal to Five Thousand Dollars (\$5,000.00),
319 which may be reduced on a pro rata basis for each year served
320 under such contract.

321 (c) If any recipient fails or withdraws from school at
322 any time before successfully completing his or her health care
323 training, the recipient shall be liable for repayment on demand of
324 the amount of the total compensation that the recipient was paid
325 while on paid educational leave, with interest accruing at ten



326 percent (10%) per annum from the date the recipient failed or
327 withdrew from school. However, the recipient shall not be liable
328 for liquidated damages, and if the recipient returns to work at
329 the sponsoring hospital in the same position held at such hospital
330 prior to accepting educational leave, or a position approved by
331 such hospital, the recipient shall not be liable for payment of
332 any interest on the amount owed.

333 (d) The issuance and renewal of the professional
334 license required to work as a licensed practical nurse, registered
335 nurse, nurse practitioner, speech pathologist, occupational
336 therapist, physical therapist or other health care professional
337 for which the educational leave was granted shall be contingent
338 upon the repayment of the total compensation that the recipient
339 received while on paid educational leave. Failure to meet the
340 terms of an educational loan contract shall be grounds for
341 revocation of the professional license which was earned through
342 the paid educational leave compensation granted under this
343 section. Any individual who receives any amount of paid
344 educational leave compensation while in school and subsequently
345 receives a professional license shall be deemed to have earned the
346 professional license through paid educational leave.

347 **SECTION 3.** This act shall take effect and be in force from
348 and after July 1, 2003.

