

By: Representative Moody

To: Public Health and Human Services

HOUSE BILL NO. 1454  
(As Passed the House)

1 AN ACT TO CREATE THE RURAL HEALTH AVAILABILITY ACT; TO  
2 PROVIDE THAT RURAL HOSPITALS MAY ENTER INTO COOPERATIVE AGREEMENTS  
3 FOR CERTAIN PURPOSES; TO REQUIRE PARTIES TO THOSE COOPERATIVE  
4 AGREEMENTS TO APPLY FOR A CERTIFICATE OF PUBLIC ADVANTAGE  
5 GOVERNING THE COOPERATIVE AGREEMENT; TO PROVIDE STANDARDS OF  
6 REVIEW FOR THE STATE DEPARTMENT OF HEALTH WITH REGARD TO THOSE  
7 APPLICATIONS AND ISSUANCE OF CERTIFICATES; TO REQUIRE THE  
8 DEPARTMENT TO MONITOR AND REGULATE THOSE AGREEMENTS; TO AUTHORIZE  
9 THE DEPARTMENT TO REVOKE A CERTIFICATE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** This act shall be known and may be cited as the  
12 "Rural Health Availability Act."

13 **SECTION 2.** The Legislature finds and declares the following:

14 (a) In rural areas, access to health care is limited  
15 and the quality of health care is adversely affected by inadequate  
16 reimbursement and collection rates and difficulty in recruiting  
17 and retaining skilled health professionals.

18 (b) There is limited, if any, overlap in the geographic  
19 service areas of Mississippi rural hospitals.

20 (c) Rural hospitals' financial stability is threatened  
21 by patient migration to general acute care and specialty hospitals  
22 in urban areas.

23 (d) The availability of quality health care in rural  
24 areas is essential to the economic and social viability of rural  
25 communities.

26 (e) Cooperative agreements among rural hospitals would  
27 improve the availability and quality of health care for  
28 Mississippians in rural areas and enhance the likelihood that  
29 rural hospitals can remain open.

30           **SECTION 3.** For the purposes of this act, the following terms  
31 shall have the following meanings:

32           (a) "Act" means the Rural Health Availability Act.

33           (b) "Affected person," with respect to any application  
34 for a certificate of public advantage, means:

35                   (i) The applicant(s);

36                   (ii) Any person residing within the geographic  
37 service area of an applicant;

38                   (iii) Health care purchasers who reimburse health  
39 care facilities located in the geographic service area of an  
40 applicant;

41                   (iv) Any other person furnishing goods or services  
42 to, or in competition with, an applicant; or

43                   (v) Any other person who has notified the  
44 department in writing of his interest in applications for  
45 certificates of public advantage and has a direct economic  
46 interest in the decision.

47           Notwithstanding the foregoing, persons from other states who  
48 would otherwise be considered "affected persons" are not included,  
49 unless that other state provides for similar involvement of  
50 persons from Mississippi in a similar process in that state.

51           (c) "Board" means the State Board of Health established  
52 under Section 41-3-1.

53           (d) "Certificate of public advantage" means the formal  
54 written approval, including any conditions or modifications of a  
55 cooperative agreement by the department.

56           (e) "Cooperative agreement" means a contract, business  
57 or financial arrangement, or any other activities or practices  
58 among two (2) or more rural hospitals for the sharing, allocation,  
59 or referral of patients; the sharing or allocation of personnel,  
60 instructional programs, support services and facilities, medical,  
61 diagnostic or laboratory facilities, procedures, equipment, or  
62 other health care services; the acquisition or merger of assets

63 among or by two (2) or more rural hospitals, including agreements  
64 to negotiate jointly with respect to price or other competitive  
65 terms with suppliers. The term "cooperative agreement" includes  
66 any amendments thereto with respect to which a certificate of  
67 public advantage has been issued or applied for or with respect to  
68 which a certificate of public advantage is not required, unless  
69 the context clearly requires otherwise.

70 (f) "Department" means the State Department of Health  
71 created under Section 41-3-15.

72 (g) "Hospital" has the meaning set forth in Section  
73 41-9-3.

74 (h) "Rural area" means an area with a population  
75 density of less than one hundred (100) individuals per square  
76 mile; a municipality or county with a population of less than  
77 seven thousand five hundred (7,500) individuals; or an area  
78 defined by the most recent United States Census as rural.

79 (i) "Rural hospital" means a private or community  
80 hospital having at least one (1) but no more than seventy-five  
81 (75) licensed acute-care beds that is located in a rural area.

82 (j) "State" means the State of Mississippi.

83 (k) "State Health Officer" means the State Health  
84 Officer elected by the State Board of Health under Section 41-3-5.

85 The use of a singular term in this section includes the  
86 plural of that term, and the use of a plural term in this section  
87 includes the singular of that term, unless the context clearly  
88 requires another connotation.

89 **SECTION 4.** (1) A rural hospital and any corporation,  
90 partnership, joint venture or any other entity, all of whose  
91 principals are rural hospitals, may negotiate and enter into  
92 cooperative agreements with other such persons in the state,  
93 subject to receipt of a certificate of public advantage governing  
94 the agreement as provided in this act.

95           (2) Parties to a cooperative agreement may apply to the  
96 department for a certificate of public advantage governing that  
97 cooperative agreement. The application must include an executed  
98 written copy of the cooperative agreement and describe the nature  
99 and scope of the cooperation in the agreement and any  
100 consideration passing to any party under the agreement. Within  
101 thirty (30) days of receipt of the application, the department may  
102 request additional information as may be necessary to complete the  
103 application. The applicant has thirty (30) days from the date of  
104 the request to submit the additional information. If the  
105 applicant fails to submit the requested information within the  
106 thirty (30) day period, or any extension of time granted by the  
107 department, the application is deemed withdrawn. The department  
108 may require an application fee from the submitting parties  
109 sufficient to cover the cost of processing the application.

110           (3) The department shall review the application in  
111 accordance with the standards set forth in subsection (4) of this  
112 section. The department shall give notice of the application to  
113 members of the public who reside in the service areas of the  
114 applicant hospitals, which may be provided through newspapers of  
115 general circulation or public information channels. If requested  
116 by an affected person within thirty (30) days of the giving of the  
117 public notice, the department may hold a public hearing in  
118 accordance with the rules adopted by the board. The department  
119 shall grant or deny the application within sixty (60) days after  
120 receipt of a completed application or from the date of the public  
121 hearing, if one is held, and that decision, along with any  
122 conditions of approval, must be in writing and must set forth the  
123 basis for the decision. The department may establish conditions  
124 for approval that are reasonably necessary to ensure that the  
125 cooperative agreement and the activities engaged under it are  
126 consistent with the intent of this act and to ensure that the  
127 activity is appropriately supervised and regulated by the state.

128 The department shall furnish a copy of the decision to the  
129 applicants and any affected persons who have asked in writing to  
130 be notified.

131 (4) The department shall issue a certificate of public  
132 advantage for a cooperative agreement if it determines that:

133 (a) Each of the parties to the cooperative agreement  
134 is a rural hospital or is a corporation, partnership, joint  
135 venture or other entity all of whose principals are rural  
136 hospitals;

137 (b) The geographic service area of the rural hospitals  
138 who are parties to the agreement do not overlap significantly; and

139 (c) The cooperative agreement is likely to result in  
140 one or more of the following benefits:

141 (i) Enhancement of the quality of hospital and  
142 hospital-related care provided to Mississippi citizens;

143 (ii) Preservation of hospital facilities and  
144 health care in rural areas;

145 (iii) Gains in the cost-efficiency of services  
146 provided by the hospitals involved;

147 (iv) Encouragement of cost-sharing among the  
148 hospitals involved;

149 (v) Improvements in the utilization of hospital  
150 resources and equipment; or

151 (vi) Avoidance or reduction of duplication of  
152 hospital resources or expenses, including administrative expenses.

153 (5) The department shall actively monitor and regulate  
154 agreements approved under this act and may request information  
155 whenever necessary to ensure that the agreements remain in  
156 compliance with the conditions of approval. The department may  
157 charge an annual fee to cover the cost of monitoring and  
158 regulating these agreements. During the time the certificate is  
159 in effect, a report on the activities under the cooperative  
160 agreement must be filed with the department every two (2) years.

161 The department shall review the report in order to determine that  
162 the cooperative agreement continues to comply with the terms of  
163 the certificate of public advantage.

164 (6) The department shall revoke a certificate of public  
165 advantage by giving written notice to each party to a cooperative  
166 agreement with respect to which the certificate is being revoked,  
167 if it finds that:

168 (a) The cooperative agreement or activities undertaken  
169 by it are not in substantial compliance with the terms of the  
170 application or the conditions of approval;

171 (b) The likely benefits resulting from the cooperative  
172 agreement no longer exist; or

173 (c) The department's approval was obtained as a result  
174 of intentional material misrepresentation to the department or as  
175 the result of coercion, threats, or intimidation toward any party  
176 to the cooperative agreement.

177 (7) The department shall maintain on file all cooperative  
178 agreements for which certificates of public advantage remain in  
179 effect. A party to a cooperative agreement who terminates or  
180 withdraws from the agreement shall notify the department within  
181 fifteen (15) days of the termination or withdrawal. If all  
182 parties terminate their participation in the cooperative  
183 agreement, the department shall revoke the certificate of public  
184 advantage for the agreement.

185 (8) The parties to a cooperative agreement with respect to  
186 which a certificate of advantage is in effect must notify the  
187 department of any proposed amendment to the cooperative agreement,  
188 including an amendment to add an additional party but excluding an  
189 amendment to remove or to reflect the withdrawal of a party,  
190 before the amendment takes effect. The parties must apply to the  
191 department for a certificate of public advantage governing the  
192 amendment and the department shall consider and rule on the

193 application in accordance with the procedures applicable to  
194 cooperative agreements generally.

195 (9) The department may promulgate rules and regulations in  
196 accordance with the Administrative Procedures Law as in effect  
197 from time to time to implement the provisions of this act,  
198 including any fees and application costs associated with the  
199 monitoring and oversight of cooperative agreements approved under  
200 this act.

201 (10) A dispute among the parties to a cooperative agreement  
202 concerning its meaning or terms is governed by the principles of  
203 contract law or any other applicable law.

204 **SECTION 5.** Any applicant aggrieved by a decision of the  
205 department under this act shall be entitled to judicial review  
206 thereof in the Circuit Court of Hinds County, First Judicial  
207 District. In the review, the decision of the department shall be  
208 affirmed unless it is arbitrary, capricious, or it is not in  
209 compliance with this act.

210 **SECTION 6.** Nothing in this act exempts hospitals from  
211 compliance with the provisions of Sections 41-7-171 et seq.  
212 concerning certificates of need.

213 **SECTION 7.** This act shall take effect and be in force from  
214 and after July 1, 2004.