

By: Representative Johnson (87th)

To: Public Health and Human Services

HOUSE BILL NO. 1123

1 AN ACT TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE EXPRESS POLICY OF THE STATE OF MISSISSIPPI IS
 3 TO PROMOTE THE OPERATIONAL AND ECONOMIC VIABILITY OF COMMUNITY
 4 HOSPITALS AND THE ESTABLISHMENT OF COMMUNITY HOSPITAL SYSTEMS; TO
 5 PROVIDE THAT IN ACCORDANCE WITH THIS STATE POLICY OF PROMOTING
 6 INCREASED ACCESS BY RURAL RESIDENTS TO COMMUNITY HOSPITAL SYSTEMS,
 7 ACQUISITIONS OF HOSPITALS OR OTHER HEALTH CARE FACILITIES BY A
 8 COMMUNITY HOSPITAL THAT ARE DULY APPROVED BY THE OWNERS AND BOARD
 9 OF TRUSTEES OF THE COMMUNITY HOSPITAL ARE DEEMED TO BE PURSUANT TO
 10 THIS CLEARLY ARTICULATED STATE POLICY AND SHALL NOT BE SUBJECT TO
 11 STATE OR FEDERAL ANTITRUST LAWS; TO AUTHORIZE COMMUNITY HOSPITALS
 12 TO ACQUIRE HOSPITALS AND OTHER HEALTH CARE FACILITIES OUTSIDE ITS
 13 SERVICE AREA UPON A FINDING BY ITS BOARD OF TRUSTEES THAT THE
 14 ACQUISITION AND ANY RELATED TRANSACTIONS ARE IN THE BEST INTERESTS
 15 OF THE RESIDENTS OF THE AREA SERVED BY THE HOSPITAL OR HEALTH CARE
 16 FACILITY TO BE ACQUIRED; AND FOR RELATED PURPOSES.

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

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

20 41-13-35. (1) The board of trustees of any community
 21 hospital shall have full authority to appoint an administrator,
 22 who shall not be a member of the board of trustees, and to
 23 delegate reasonable authority to such administrator for the
 24 operation and maintenance of such hospital and all property and
 25 facilities otherwise appertaining thereto.



26 (2) The board of trustees shall have full authority to
27 select from its members, officers and committees and, by
28 resolution or through the board bylaws, to delegate to such
29 officers and committees reasonable authority to carry out and
30 enforce the powers and duties of the board of trustees during the
31 interim periods between regular meetings of the board of trustees;
32 provided, however, that any such action taken by an officer or
33 committee shall be subject to review by the board, and actions may
34 be withdrawn or nullified at the next subsequent meeting of the
35 board of trustees if the action is in excess of delegated
36 authority.

37 (3) The board of trustees shall be responsible for governing
38 the community hospital under its control and shall make and
39 enforce staff and hospital bylaws and/or rules and regulations
40 necessary for the administration, government, maintenance and/or
41 expansion of such hospitals. The board of trustees shall keep
42 minutes of its official business and shall comply with Section
43 41-9-68.

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

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

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



51 (b) To establish such equitable wage and salary
52 programs and other employment benefits as may be deemed expedient
53 or proper, and in so doing, to expend reasonable funds for such
54 employee salary and benefits. Allowable employee programs shall
55 specifically include, but not be limited to, medical benefit,
56 life, accidental death and dismemberment, disability, retirement
57 and other employee coverage plans. The hospital may offer and
58 fund such programs directly or by contract with any third party
59 and shall be authorized to take all actions necessary to
60 implement, administer and operate such plans, including payroll
61 deductions for such plans;

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

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

69 (e) To devise and implement employee incentive
70 programs;

71 (f) To recruit and financially assist physicians and
72 other health care practitioners in establishing, or relocating
73 practices within the service area of the community hospital
74 including, without limitation, direct and indirect financial
75 assistance, loan agreements, agreements guaranteeing minimum



76 incomes for a stipulated period from opening of the practice and
77 providing free office space or reduced rental rates for office
78 space where such recruitment would directly benefit the community
79 hospital and/or the health and welfare of the citizens of the
80 service area;

81 (g) To contract by way of lease, lease-purchase or
82 otherwise, with any agency, department or other office of
83 government or any individual, partnership, corporation, owner,
84 other board of trustees, or other health care facility, for the
85 providing of property, equipment or services by or to the
86 community hospital or other entity or regarding any facet of the
87 construction, management, funding or operation of the community
88 hospital or any division or department thereof, or any related
89 activity, including, without limitation, shared management
90 expertise or employee insurance and retirement programs, and to
91 terminate said contracts when deemed in the best interests of the
92 community hospital;

93 (h) To file suit on behalf of the community hospital to
94 enforce any right or claims accruing to the hospital and to defend
95 and/or settle claims against the community hospital and/or its
96 board of trustees;

97 (i) To sell or otherwise dispose of any chattel
98 property of the community hospital by any method deemed
99 appropriate by the board where such disposition is consistent with



100 the hospital purposes or where such property is deemed by the
101 board to be surplus or otherwise unneeded;

102 (j) To let contracts for the construction, remodeling,
103 expansion or acquisition, by lease or purchase, of hospital or
104 health care facilities, including real property, within the
105 service area for community hospital purposes, and outside of the
106 service area as provided in where such may be done with
107 operational funds without encumbrancing the general funds of the
108 county or municipality, provided that any contract for the
109 purchase of real property must be ratified by the owner;

110 (k) To borrow money and enter other financing
111 arrangements for community hospital and related purposes and to
112 grant security interests in hospital equipment and other hospital
113 assets and to pledge a percentage of hospital revenues as security
114 for such financings where needed; provided that the owner shall
115 specify by resolution the maximum borrowing authority and maximum
116 percent of revenue which may be pledged by the board of trustees
117 during any given fiscal year;

118 (l) To expend hospital funds for public relations or
119 advertising programs;

120 (m) To offer the following inpatient and outpatient
121 services, after complying with applicable health planning,
122 licensure statutes and regulations, whether or not heretofore
123 offered by such hospital or other similar hospitals in this state
124 and whether or not heretofore authorized to be offered, long-term



125 care, extended care, home care, after-hours clinic services,
126 ambulatory surgical clinic services, preventative health care
127 services including wellness services, health education,
128 rehabilitation and diagnostic and treatment services; to promote,
129 develop, operate and maintain a center providing care or
130 residential facilities for the aged, convalescent or handicapped;
131 and to promote, develop and institute any other services having an
132 appropriate place in the operation of a hospital offering complete
133 community health care;

134 (n) To promote, develop, acquire, operate and maintain
135 on a nonprofit basis, or on a profit basis if the community
136 hospital's share of profits is used solely for community hospital
137 and related purposes in accordance with this chapter, either
138 separately or jointly with one or more other hospitals or
139 health-related organizations, facilities and equipment for
140 providing goods, services and programs for hospitals, other health
141 care providers, and other persons or entities in need of such
142 goods, services and programs and, in doing so, to provide for
143 contracts of employment or contracts for services and ownership of
144 property on terms that will protect the public interest;

145 (o) To establish and operate medical offices, child
146 care centers, wellness or fitness centers and other facilities and
147 programs which the board determines are appropriate in the
148 operation of a community hospital for the benefit of its
149 employees, personnel and/or medical staff which shall be operated



150 as an integral part of the hospital and which may, in the
151 direction of the board of trustees, be offered to the general
152 public. If such programs are not established in existing
153 facilities or constructed on real estate previously acquired by
154 the owners, the board of trustees shall also have authority to
155 acquire, by lease or purchase, such facilities and real property
156 within the service area, whether or not adjacent to existing
157 facilities, provided that any contract for the purchase of real
158 property shall be ratified by the owner. The trustees shall lease
159 any such medical offices to members of the medical staff at rates
160 deemed appropriate and may, in its discretion, establish rates to
161 be paid for the use of other facilities or programs by its
162 employees or personnel or members of the public whom the trustees
163 may determine may properly use such other facilities or programs;

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

167 (q) Establish a fair and equitable system for the
168 billing of patients for care or users of services received through
169 the community hospital, which in the exercise of the board of
170 trustees' prudent fiscal discretion, may allow for rates to be
171 classified according to the potential usage by an identified group
172 or groups of patients of the community hospital's services and may
173 allow for standard discounts where the discount is designed to
174 reduce the operating costs or increase the revenues of the



175 community hospital. Such billing system may also allow for the
176 payment of charges by means of a credit card or similar device and
177 allow for payment of administrative fees as may be regularly
178 imposed by a banking institution or other credit service
179 organization for the use of such cards;

180 (r) To establish as an organizational part of the
181 hospital or to aid in establishing as a separate entity from the
182 hospital, hospital auxiliaries designed to aid the hospital, its
183 patients, and/or families and visitors of patients, and when the
184 auxiliary is established as a separate entity from the hospital,
185 the board of trustees may cooperate with the auxiliary in its
186 operations as the board of trustees deems appropriate; and

187 (s) To make any agreements or contracts with the
188 federal government or any agency thereof, the State of Mississippi
189 or any agency thereof, and any county, city, town, supervisors
190 district or election district within this state, jointly or
191 separately, for the maintenance of charity facilities.

192 (6) Since community hospitals established by the state under
193 this chapter serve a significant number of rural residents with
194 limited access to health care services, it is also the express
195 policy of the State of Mississippi to promote the operational and
196 economic viability of community hospitals and the establishment of
197 community hospital systems. In accordance with this state policy
198 of promoting increased access by rural residents to community
199 hospital systems, acquisitions of hospitals or other health care



200 facilities by a community hospital under this chapter that are
201 duly approved by the owners and board of trustees of the community
202 hospital are deemed to be pursuant to this clearly articulated
203 state policy and shall not be subject to state or federal
204 antitrust laws. A community hospital may acquire hospitals and
205 other health care facilities outside its service area upon a
206 finding by its board of trustees that the acquisition and any
207 related transactions are in the best interests of the residents of
208 the area served by the hospital or health care facility to be
209 acquired.

210 (* * *7) No board of trustees of any community hospital may
211 accept any grant of money or other thing of value from any
212 not-for-profit or for-profit organization established for the
213 purpose of supporting health care in the area served by the
214 facility unless two-thirds (2/3) of the trustees vote to accept
215 the grant.

216 (* * *8) No board of trustees, individual trustee or any
217 other person who is an agent or servant of the trustees of any
218 community hospital shall have any personal financial interest in
219 any not-for-profit or for-profit organization which, regardless of
220 its stated purpose of incorporation, provides assistance in the
221 form of grants of money or property to community hospitals or
222 provides services to community hospitals in the form of
223 performance of functions normally associated with the operations
224 of a hospital.



225 **SECTION 2.** This act shall take effect and be in force from
226 and after July 1, 2018.

