

By: Senator(s) Fillingane, Branning, Jordan

To: Public Health and Welfare

SENATE BILL NO. 2323
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY AND EXPAND THE POWERS AND DUTIES OF THE BOARDS OF
3 TRUSTEES OF COMMUNITY HOSPITALS AND TO PROVIDE THAT ANY
4 CONSOLIDATION OR COLLABORATION INVOLVING A COMMUNITY HOSPITAL AND
5 OTHER PUBLIC, PRIVATE OR NONPROFIT HOSPITALS, HEALTH CARE
6 FACILITIES OR PROVIDERS SHALL BE IMMUNE FROM LIABILITY UNDER THE
7 FEDERAL AND STATE ANTITRUST OR COMPETITION LAWS TO THE FULLEST
8 EXTENT ALLOWED BY LAW; TO AMEND SECTION 41-13-29, MISSISSIPPI CODE
9 OF 1972, TO INCREASE THE MAXIMUM PER DIEM PAYABLE TO TRUSTEES; TO
10 AMEND SECTION 37-115-50, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
11 THE ACADEMIC MEDICAL CENTER AND ITS HEALTH CARE COLLABORATIVES
12 ACTING INDIVIDUALLY OR JOINTLY SHALL BE IMMUNIZED FROM LIABILITY
13 UNDER THE FEDERAL AND STATE ANTITRUST OR COMPETITION LAWS TO THE
14 FULLEST EXTENT ALLOWED BY LAW; TO CREATE NEW SECTION 37-115-50.2,
15 MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN LEGISLATIVE FINDINGS
16 AND DECLARATIONS RELATED TO THE ACT; TO CREATE NEW SECTION
17 37-115-50.3, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN POWERS
18 TO THE ACADEMIC MEDICAL CENTER AND ITS HEALTH CARE COLLABORATIVES
19 SUBJECT TO ANY REQUIRED APPROVAL OF THE BOARD OF TRUSTEES OF STATE
20 INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 75-21-13,
21 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THE ACT;
22 TO AMEND SECTIONS 41-9-301, 41-9-303, 41-9-305 AND 41-9-307,
23 MISSISSIPPI CODE OF 1972, TO INCLUDE PRIVATE HOSPITALS IN THE
24 RURAL HEALTH AVAILABILITY ACT AND RENAME THE ACT AS THE "RURAL AND
25 PRIVATE HOSPITALS HEALTH AVAILABILITY ACT;" TO PROVIDE THAT
26 PRIVATE HOSPITALS, WHETHER IN A RURAL OR NONRURAL AREA, AND ANY
27 OTHER ENTITY MAY NEGOTIATE AND ENTER INTO COOPERATIVE AGREEMENTS,
28 SUBJECT TO RECEIPT OF A CERTIFICATE OF PUBLIC ADVANTAGE GOVERNING
29 THE AGREEMENT THAT IS APPROVED BY THE STATE DEPARTMENT OF HEALTH;
30 AND FOR RELATED PURPOSES.

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



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

34 41-13-35. (1) The board of trustees of any community
35 hospital shall have full authority to appoint an administrator,
36 who shall not be a member of the board of trustees, and to
37 delegate reasonable authority to such administrator for the
38 operation and maintenance of such hospital and all property and
39 facilities otherwise appertaining thereto.

40 (2) The board of trustees shall have full authority to
41 select from its members, officers and committees and, by
42 resolution or through the board bylaws, to delegate to such
43 officers and committees reasonable authority to carry out and
44 enforce the powers and duties of the board of trustees during the
45 interim periods between regular meetings of the board of trustees;
46 provided, however, that any such action taken by an officer or
47 committee shall be subject to review by the board, and actions may
48 be withdrawn or nullified at the next subsequent meeting of the
49 board of trustees if the action is in excess of delegated
50 authority.

51 (3) The board of trustees shall be responsible for governing
52 the community hospital under its control and shall make and
53 enforce staff and hospital bylaws and/or rules and regulations
54 necessary for the administration, government, maintenance and/or
55 expansion of such hospitals. The board of trustees shall keep



56 minutes of its official business and shall comply with Section
57 41-9-68.

58 (4) The decisions of * * * the board of trustees of the
59 community hospital shall be valid and binding unless expressly
60 prohibited by applicable statutory or constitutional provisions.

61 (5) The * * * powers and duties of the board of trustees
62 shall specifically include, but not be limited to, the
63 following * * *:

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

66 (b) To establish such equitable wage and salary
67 programs and other employment benefits as may be deemed expedient
68 or proper, and in so doing, to expend reasonable funds for such
69 employee salary and benefits. Allowable employee programs shall
70 specifically include, but not be limited to, medical benefit,
71 life, accidental death and dismemberment, disability, retirement
72 and other employee coverage plans. The hospital may offer and
73 fund such programs directly or by contract with any third party
74 and shall be authorized to take all actions necessary to
75 implement, administer and operate such plans, including payroll
76 deductions for such plans;

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



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

84 (e) To devise and implement employee incentive
85 programs;

86 (f) To recruit and financially assist physicians and
87 other health care practitioners in establishing, or relocating
88 practices within the service area of the community hospital
89 including, without limitation, direct and indirect financial
90 assistance, loan agreements, agreements guaranteeing minimum
91 incomes for a stipulated period from opening of the practice and
92 providing free office space or reduced rental rates for office
93 space where such recruitment would directly benefit the community
94 hospital and/or the health and welfare of the citizens of the
95 service area;

96 (g) To contract by way of lease, lease-purchase or
97 otherwise, with any agency, department or other office of
98 government or any individual, partnership, corporation, owner,
99 other board of trustees, or other health care facility, for the
100 providing of property, equipment or services by or to the
101 community hospital or other entity or regarding any facet of the
102 construction, management, funding or operation of the community
103 hospital or any division or department thereof, or any related
104 activity, including, without limitation, shared management



105 expertise or employee insurance and retirement programs, and to
106 terminate * * * those contracts when deemed in the best interests
107 of the community hospital;

108 (h) To file suit on behalf of the community hospital to
109 enforce any right or claims accruing to the hospital and to defend
110 and/or settle claims against the community hospital and/or its
111 board of trustees;

112 (i) To sell or otherwise dispose of any chattel
113 property of the community hospital by any method deemed
114 appropriate by the board where such disposition is consistent with
115 the hospital purposes or where such property is deemed by the
116 board to be surplus or otherwise unneeded;

117 (j) To let contracts for the construction, remodeling,
118 expansion or acquisition, by lease or purchase, of hospital or
119 health care facilities, including real property, within the
120 service area for community hospital purposes where such may be
121 done with operational funds without encumbering the general
122 funds of the county or municipality, provided that any contract
123 for the purchase or lease of real property must * * * have the
124 prior approval of the owner;

125 (k) To borrow money and enter other financing
126 arrangements for community hospital and related purposes and to
127 grant security interests in hospital equipment and other hospital
128 assets and to pledge a percentage of hospital revenues as security
129 for such financings where needed; provided that the owner shall



130 specify by resolution the maximum borrowing authority and maximum
131 percent of revenue * * * that may be pledged by the board of
132 trustees during any given fiscal year;

133 (l) To expend hospital funds for public relations or
134 advertising programs;

135 (m) To offer the following inpatient and outpatient
136 services, after complying with applicable health planning,
137 licensure statutes and regulations, whether or not heretofore
138 offered by such hospital or other similar hospitals in this state
139 and whether or not heretofore authorized to be offered, long-term
140 care, extended care, home care, after-hours clinic services,
141 ambulatory surgical clinic services, preventative health care
142 services including wellness services, health education,
143 rehabilitation and diagnostic and treatment services; to promote,
144 develop, operate and maintain a center providing care or
145 residential facilities for the aged, convalescent or handicapped;
146 and to promote, develop and institute any other services having an
147 appropriate place in the operation of a hospital offering complete
148 community health care;

149 (n) To promote, develop, acquire, operate and maintain
150 on a nonprofit basis, or on a profit basis if the community
151 hospital's share of profits is used solely for community hospital
152 and related purposes in accordance with this chapter, either
153 separately or jointly with one or more other hospitals or
154 health-related organizations, facilities and equipment for



155 providing goods, services and programs for hospitals, other health
156 care providers, and other persons or entities in need of such
157 goods, services and programs and, in doing so, to provide for
158 contracts of employment or contracts for services and ownership of
159 property on terms that will protect the public interest;

160 (o) To establish and operate medical offices, child
161 care centers, wellness or fitness centers and other facilities and
162 programs which the board determines are appropriate in the
163 operation of a community hospital for the benefit of its
164 employees, personnel and/or medical staff which shall be operated
165 as an integral part of the hospital and which may, in the
166 direction of the board of trustees, be offered to the general
167 public. If such programs are not established in existing
168 facilities or constructed on real estate previously acquired by
169 the owners, the board of trustees shall also have authority to
170 acquire, by lease or purchase, such facilities and real property
171 within the service area, whether or not adjacent to existing
172 facilities, provided that any contract for the purchase of real
173 property shall be ratified by the owner. The trustees shall lease
174 any such medical offices to members of the medical staff at rates
175 deemed appropriate and may, in its discretion, establish rates to
176 be paid for the use of other facilities or programs by its
177 employees or personnel or members of the public whom the trustees
178 may determine may properly use such other facilities or programs;



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

182 (q) Establish a fair and equitable system for the
183 billing of patients for care or users of services received through
184 the community hospital, which in the exercise of the board of
185 trustees' prudent fiscal discretion, may allow for rates to be
186 classified according to the potential usage by an identified group
187 or groups of patients of the community hospital's services and may
188 allow for standard discounts where the discount is designed to
189 reduce the operating costs or increase the revenues of the
190 community hospital. Such billing system may also allow for the
191 payment of charges by means of a credit card or similar device and
192 allow for payment of administrative fees as may be regularly
193 imposed by a banking institution or other credit service
194 organization for the use of such cards;

195 (r) To establish as an organizational part of the
196 hospital or to aid in establishing as a separate entity from the
197 hospital, hospital auxiliaries designed to aid the hospital, its
198 patients, and/or families and visitors of patients, and when the
199 auxiliary is established as a separate entity from the hospital,
200 the board of trustees may cooperate with the auxiliary in its
201 operations as the board of trustees deems appropriate; * * *

202 (s) To make any agreements or contracts with the
203 federal government or any agency thereof, the State of Mississippi



204 or any agency thereof, and any county, city, town, supervisors
205 district or election district within this state, jointly or
206 separately, for the maintenance of charity facilities * * *;

207 (t) To acquire hospitals, health care facilities and
208 other health care-related operations and assets, through direct
209 purchase, merger, consolidation, lease or other means;

210 (u) To enter into joint ventures, joint-operating
211 agreements or similar arrangements with other public or private
212 health care-related organizations, or with for-profit or nonprofit
213 corporations, for-profit or nonprofit limited liability companies
214 or other similar organizations, either directly or through a
215 nonprofit corporation formed or owned by the community hospital,
216 for the joint operation of all or part of the community hospital,
217 or the joint operation of any health care facilities or health
218 care services, and in doing so, to convey the community hospital's
219 assets, service lines or facilities to the joint venture or to any
220 other organization or entity for fair market value, and to provide
221 for contracts of employment or contracts for services and
222 ownership of property that will protect the public interest;

223 (v) To form, establish, fund and operate nonprofit
224 corporations, nonprofit limited liability companies,
225 state-sponsored entities or other similar organizations, either
226 directly or through a nonprofit corporation formed by the
227 community hospital, which are jointly owned with other public or
228 private hospitals, for-profit or nonprofit corporations, or other



229 health care-related organizations, for the purpose of conducting
230 activities within or outside of the community hospital's service
231 area for the benefit of the community hospital, including, but not
232 limited to, joint hospital acquisitions, group purchasing,
233 clinically integrated networks, payor contracting, and joint
234 requests for federal and state grants and funding;

235 (w) To make capital contributions, loans, debt or
236 equity financing to or for any joint venture or similar
237 arrangement in which the community hospital, or any nonprofit
238 corporation formed, leased or owned by the community hospital, has
239 or acquires an ownership interest, and to guarantee loans and any
240 other obligations for such purposes;

241 (x) To establish arrangements for the community
242 hospital to participate in financial integration and/or clinical
243 integration or clinically integrated networks with a joint
244 venture, with other public or private or nonprofit health-related
245 organizations, or through a joint-operating agreement;

246 (y) To have an ownership interest in, make capital
247 contributions to, and assume financial risk under, accountable
248 care organizations or similar organizations;

249 (z) To enter into any contract for a term of any
250 length, regardless of whether the length or term of the contract
251 exceeds the term of the board of trustees of the community
252 hospital;



253 (aa) To elect some, any or all of the members of the
254 board of directors of any nonprofit corporation of which the
255 community hospital is a member;

256 (bb) To create, establish, acquire, operate or support
257 subsidiaries and affiliates, either for-profit or nonprofit or
258 other similar entity, to assist the community hospital in
259 fulfilling its purposes;

260 (cc) To create, establish or support nonaffiliated
261 for-profit or nonprofit corporations or other similar lawful
262 business organizations that operate and have as their purposes the
263 furtherance of the community hospital's purposes;

264 (dd) Without limiting the generality of any provisions
265 of this section, to accomplish and facilitate the creation,
266 establishment, acquisition, operation or support of any such
267 subsidiary, affiliate, nonaffiliated corporation or other lawful
268 business organization, by means of loans of funds, acquisition or
269 transfer of assets, leases of real or personal property, gifts and
270 grants of funds or guarantees of indebtedness of such
271 subsidiaries, affiliates and nonaffiliated corporations;

272 (ee) To exercise all powers granted under this section
273 in such a manner as the community hospital, through its board of
274 trustees, may determine to be consistent with the purposes of this
275 chapter, including the state action immunity provided by this
276 section from state and federal antitrust laws to the fullest
277 extent possible, notwithstanding that as a consequence of such



278 exercise of such powers it engages in activities that may be
279 deemed "anticompetitive" or which displace competition within the
280 meaning or contemplation of the antitrust laws of this state or of
281 the United States; and

282 (ff) The board of trustees shall not sell, purchase,
283 convey, lease, or enter into agreements that have the effect of
284 selling, purchasing, conveying, or leasing any real property or
285 enter into management agreements, merger agreements, joint
286 ventures, joint-operating agreements or similar arrangements that
287 transfer control of any real property or the operations of a
288 community hospital described in this subsection without the prior
289 approval of the owners of the real property.

290 (6) No board of trustees of any community hospital may
291 accept any grant of money or other thing of value from any
292 not-for-profit or for-profit organization established for the
293 purpose of supporting health care in the area served by the
294 facility unless two-thirds (2/3) of the trustees vote to accept
295 the grant.

296 (7) No board of trustees, individual trustee or any other
297 person who is an agent or servant of the trustees of any community
298 hospital shall have any personal financial interest in any
299 not-for-profit or for-profit organization which, regardless of its
300 stated purpose of incorporation, provides assistance in the form
301 of grants of money or property to community hospitals or provides



302 services to community hospitals in the form of performance of
303 functions normally associated with the operations of a hospital.

304 (8) The Legislature finds and declares as follows:

305 (a) The needs of the residents of Mississippi can best
306 be served by community hospitals having the legal, financial and
307 operational flexibility to take full advantage of opportunities
308 and challenges presented by the evolving health care environment
309 and to take whatever actions are necessary to enable the community
310 hospitals' continuation as health care systems that provide the
311 finest possible quality of care consistent with reasonable costs.

312 (b) In this environment, the community hospitals must
313 have the ability to respond to changing conditions by having the
314 power to develop efficient and cost-effective methods and
315 structures to provide for health care needs, while maintaining a
316 public mission and character. In addition, community hospitals in
317 Mississippi are political subdivisions of the state. Accordingly,
318 the Legislature finds that there is a compelling interest in
319 establishing a structure and process for a community hospital to
320 adapt to this dynamic environment, to operate efficiently, to
321 offer competitive health care services, to respond more
322 effectively to new developments and regulatory changes in the
323 health care area, and to continue to serve and promote the health,
324 wellness and welfare of the citizens of Mississippi. The
325 acquisition, operation and financing of hospitals and other health
326 care facilities by the community hospitals are declared to be for



327 a public and governmental purpose and a matter of public
328 necessity.

329 (c) The geographic areas served by community hospitals
330 include rural populations and other groups that experience
331 significant health disparities. Health disparities are
332 differences in health status when compared to the population
333 overall, often characterized by indicators such as higher
334 incidence of disease and/or disability, increased mortality rates,
335 and lower life expectancies. Rural risk factors for health
336 disparities include geographic isolation, lower socioeconomic
337 status, higher rates of health risk behaviors and limited access
338 to health care specialists and subspecialists. As a result of
339 these health disparities, the residents of areas served by
340 community hospitals have high rates of mortality and morbidity,
341 heart disease, cancer, diabetes and other illnesses. The areas
342 also include a high percentage of uninsured individuals and
343 Medicaid patients, which are medically underserved groups.
344 Community hospitals have demonstrated their ability to provide
345 high-quality health care and to improve health conditions and
346 outcomes as well as access to care. This act will significantly
347 strengthen the ability of community hospitals to serve the health
348 care needs of the residents of their service areas.

349 (d) The community hospitals' investment of significant
350 public assets and their efforts to provide high quality health
351 care services to medically underserved populations are jeopardized



352 by potential limits on the ability of community hospitals to
353 collaborate and consolidate with other public, private, for-profit
354 and nonprofit health care facilities and providers. The
355 Legislature expressly finds that the benefits of collaboration and
356 consolidation by the community hospitals outweigh any adverse
357 impact on competition. The benefits of the community hospitals'
358 efforts to collaborate and consolidate include, but are not
359 limited to, preserving and expanding needed health care services
360 in its service area; consolidating unneeded or duplicative health
361 care services; enhancing the quality of, and expanding access to,
362 health care delivered to medically underserved and rural
363 populations; and lowering costs and improving the efficiency of
364 the health care services it delivers. Based on the findings
365 contained in this section, the Legislature affirmatively expresses
366 a policy to allow community hospitals to consolidate with other
367 public, private, for-profit or nonprofit hospitals, health care
368 facilities and providers and to engage in collaborative activities
369 consistent with their health care purposes, notwithstanding that
370 those consolidations and collaborations may have the effect of
371 displacing competition in the provision of hospital or other
372 health care-related services. In engaging in such consolidations
373 and collaborations with other public, private, for-profit or
374 nonprofit hospitals, health care facilities and providers, the
375 community hospital shall be considered to be acting pursuant to
376 clearly articulated state policy as established in this section



377 and shall not be subject to federal or state antitrust laws while
378 so acting. With respect to the consolidations, collaborative
379 activities and other activities contemplated in this section, the
380 community hospital and the public, private, for-profit or
381 nonprofit entities with which it consolidates, collaborates, or
382 enters into any of the transactions set forth in this act, shall
383 be immune from liability under the federal and state antitrust
384 laws and those activities are provided with state action immunity
385 from federal and state antitrust laws to the fullest extent
386 possible.

387 **SECTION 2.** Section 41-13-29, Mississippi Code of 1972, is
388 amended as follows:

389 41-13-29. (1) (a) The owners are authorized to appoint
390 trustees for the purpose of operating and governing community
391 hospitals. The owner of a community hospital may remove a trustee
392 after appointment for good cause shown, upon a unanimous vote of
393 all members of the governing board of the owner that appointed the
394 trustee, or upon a majority vote of the governing board of the
395 owner that appointed the trustee after a recommendation from the
396 board of trustees of the hospital that the trustee be removed. To
397 be eligible for appointment, an appointee must be an adult legal
398 resident of the county which has an ownership interest in the
399 community hospital or the county in which the municipality or
400 other political subdivision holding the ownership interest in the
401 community hospital is located. The authority to appoint trustees



402 shall not apply to leased facilities, unless specifically reserved
403 by the owner in the applicable lease agreement.

404 (b) The board of trustees shall consist of not more
405 than seven (7) members nor less than five (5) members, except
406 where specifically authorized by statute, and shall be appointed
407 by the respective owners on a pro rata basis comparable to the
408 ownership interests in the community hospital. Where the
409 community hospital is owned solely by a county, or any supervisors
410 districts, judicial districts or election district of a county, or
411 by a municipality, the trustees shall be residents of the owning
412 entity.

413 (c) Trustees for municipally owned community hospitals
414 shall be appointed by the governing authority of the municipality.
415 Trustees for a community hospital owned by a county shall be
416 appointed by the board of supervisors with each supervisor having
417 the right to nominate one (1) trustee from his district or from
418 the county at large. Appointments exceeding five (5) in number
419 shall be from the county at large. Trustees for a community
420 hospital owned solely by supervisors districts, judicial districts
421 or election district of a county, shall be appointed by the board
422 of supervisors of the county from nominees submitted by the
423 supervisor or supervisors representing the owner district or
424 districts.

425 (2) (a) Initially the board of trustees shall be appointed
426 as follows: one (1) for a term of one (1) year, one (1) for a



427 term of two (2) years, one (1) for a term of three (3) years, one
428 (1) for a term of four (4) years, and one (1) for a term of five
429 (5) years. Appointments exceeding five (5) in number shall be for
430 terms of four (4) and five (5) years, respectively. Thereafter,
431 all terms shall be for five (5) years. No community hospital
432 trustee holding office on July 1, 1982, shall be affected by this
433 provision, but the terms shall be filled at the expiration thereof
434 according to the provisions of this section; provided, however,
435 that any other specific appointment procedures presently
436 authorized shall likewise not be affected by the terms hereof.
437 Any vacancy on the board of trustees shall be filled within ninety
438 (90) days by appointment by the applicable owner for the remainder
439 of the unexpired term.

440 (b) From and after January 1, 2016, to be eligible for
441 appointment, an appointee must have no felony convictions, possess
442 at least a high school diploma or the equivalent, owe no
443 outstanding debt to the community hospital, and not be a plaintiff
444 in any pending lawsuit against the community hospital. The
445 appointee may not own an interest in, or be an officer or employee
446 of, a company or business that provides goods or services in
447 direct competition with the community hospital, nor may the
448 appointee's spouse own an interest in, or be an officer of, such
449 company or business.

450 (3) (a) Any community hospital erected, owned, maintained
451 and operated by any county located in the geographical center of



452 the State of Mississippi and in which State Highways No. 12 and
453 No. 35 intersect, shall be operated by a board of trustees of five
454 (5) members who have the qualifications set forth in this section
455 to be appointed by the board of supervisors from the county at
456 large, one (1) for a term of one (1) year, one (1) for a term of
457 two (2) years, one (1) for a term of three (3) years, one (1) for
458 a term of four (4) years, and one (1) for a term of five (5)
459 years. Thereafter all trustees shall be appointed from the county
460 at large for a period of five (5) years.

461 (b) Any community hospital erected, owned, maintained
462 and operated by any county situated in the Yazoo-Mississippi Delta
463 Levee District and bordering on the Mississippi River and having a
464 population of not less than forty-five thousand (45,000) and
465 having an assessed valuation of not less than Thirty Million
466 Dollars (\$30,000,000.00) for the year 1954, shall be operated by a
467 board of trustees which may consist of not more than eleven (11)
468 members who have the qualifications set forth in this section.

469 (c) Any hospital erected, owned, maintained and
470 operated by any county having two (2) judicial districts, which is
471 traversed by U.S. Interstate Highway 59, which intersects Highway
472 84 therein, shall be operated by a board of trustees which shall
473 consist of seven (7) members who have the qualifications set forth
474 in this section. The first seven (7) members appointed under
475 authority of this paragraph shall be appointed by the board of
476 supervisors for terms as follows:



477 Each supervisor of Supervisors Districts One and Two shall
478 nominate and the board of supervisors shall appoint one (1) person
479 from each * * * such beat for a one-year term. Each supervisor of
480 Supervisors Districts Three and Four shall nominate and the board
481 of supervisors shall appoint one (1) person from each beat for a
482 two-year term. The supervisor of Supervisors District Five shall
483 nominate and the board of supervisors shall appoint one (1) person
484 from the beat for a three-year term. The medical staff at the
485 hospital shall submit a list of four (4) nominees and the
486 supervisors shall appoint two (2) trustees from the list of
487 nominees, one (1) for a three-year term and one (1) for a one-year
488 term. Thereafter, as the terms of the board of trustee members
489 authorized by this paragraph expire, all but the trustee
490 originally appointed from the medical staff nominees for a
491 one-year term shall be appointed by the board of supervisors for
492 terms of three (3) years. The term of the trustee originally
493 appointed from the medical staff nominees by the board of
494 supervisors for a term of one (1) year shall remain a term of one
495 (1) year and shall thereafter be appointed for a term of one (1)
496 year. The two (2) members appointed from medical staff nominees
497 shall be appointed from a list of two (2) nominees for each
498 position to be submitted by the medical staff of the hospital for
499 each vacancy to be filled. It is the intent of the Legislature
500 that the board of trustees which existed prior to July 1, 1985,
501 was abolished by amendment to this section under Section 5,



502 Chapter 511, Laws of 1985, and the amendment authorized the
503 appointment of a new board of trustees on or after July 1, 1985,
504 in the manner provided in this paragraph. Any member of the board
505 of trustees which existed before July 1, 1985, who has the
506 qualifications set forth in this section shall be eligible for
507 reappointment subject to the provisions of this paragraph.

508 (d) Any community hospital erected, owned, maintained
509 and operated by any county bordering on the Mississippi River
510 having two (2) judicial districts, wherein U.S. Highway 61 and
511 Mississippi Highway 8 intersect, lying wholly within a levee
512 district, shall be operated by a board of trustees which may
513 consist of not more than nine (9) members who have the
514 qualifications set forth in this section.

515 (e) Any community hospital system owned, maintained and
516 operated by any county bordering on the Gulf of Mexico and the
517 State of Alabama shall be operated by a board of trustees
518 constituted as follows: seven (7) members shall be selected as
519 provided in subsection (1) of this section and two (2) advisors
520 who shall be the chiefs of staff at those hospitals which are a
521 part of the hospital system; the members must have the
522 qualifications set forth in this section. The term of the chiefs
523 of staff on the board of trustees shall coincide with their
524 service as chiefs of staff at their respective hospitals.

525 (4) Any community hospital owned, maintained and operated by
526 any county wherein Mississippi Highways 16 and 19 intersect,



527 having a land area of five hundred sixty-eight (568) square miles,
528 and having a population in excess of twenty-three thousand seven
529 hundred (23,700) according to the 1980 federal decennial census,
530 shall be operated by a board of trustees of five (5) members who
531 have the qualifications set forth in this section, one (1) of whom
532 shall be elected by the qualified electors of each supervisors
533 district of the county in the manner provided herein. Each member
534 so elected shall be a resident and qualified elector of the
535 district from which he is elected. The first elected members of
536 the board of trustees shall be elected at the regular general
537 election held on November 4, 1986. At the election, the members
538 of the board from Supervisors Districts One and Two shall be
539 elected for a term of six (6) years; members of the board from
540 Supervisors Districts Three and Four shall be elected for a term
541 of two (2) years; and the member of the board from Supervisors
542 District Five shall be elected for a term of four (4) years. Each
543 subsequent member of the board shall be elected for a term of six
544 (6) years at the same time as the general election in which the
545 member of the county board of education representing the same
546 supervisors district is elected. All members of the board shall
547 take office on the first Monday of January following the date of
548 their election. The terms of all seven (7) appointed members of
549 the board of trustees holding office on the effective date of this
550 act (Laws 1986, Chapter 462) shall expire on the date that the
551 first elected members of the board take office. The board of



552 trustees provided for herein shall not lease or sell the community
553 hospital property under its jurisdiction unless the board of
554 supervisors of the county calls for an election on the proposition
555 and a majority voting in the election shall approve the lease or
556 sale.

557 The members of the board of trustees provided for in this
558 subsection shall be compensated a per diem and reimbursed for
559 their expenses and mileage in the same amount and subject to the
560 same restrictions provided for members of the county board of
561 education in Section 37-5-21 and may, at the discretion of the
562 board, choose to participate in any hospital medical benefit plan
563 which may be in effect for hospital employees. Any member of the
564 board of trustees choosing to participate in the plan shall pay
565 the full cost of his participation in the plan so that no
566 expenditure of hospital funds is required.

567 The name of any qualified elector who is a candidate for the
568 community hospital board of trustees shall be placed on the ballot
569 used in the general elections by the county election
570 commissioners, if the candidate files with the county election
571 commissioners, not more than ninety (90) days and not less than
572 thirty (30) days before the date of the general election, a
573 petition of nomination signed by not less than fifty (50)
574 qualified electors of the county residing within each supervisors
575 district. The candidate in each supervisors district who receives



576 the highest number of votes cast in the district shall be declared
577 elected.

578 (5) A board of trustees provided for herein may, in its
579 discretion, where funds are available, compensate each trustee per
580 diem in at least the amount established by Section 25-3-69 up to
581 the maximum amount of not more than * * * Two Hundred Fifty
582 Dollars (\$250.00) for each meeting of the board of trustees or
583 meeting of a committee established by the board of trustees where
584 the trustee was in attendance, and in addition thereto provide
585 meals at the meetings and compensate each member attending travel
586 expenses at the rate authorized by Section 25-3-41 for actual
587 mileage traveled to and from the place of meeting.

588 (6) The owner which appointed a trustee may likewise remove
589 him from office by majority vote for failure to attend at least
590 fifty percent (50%) of the regularly scheduled meetings of the
591 board during the twelve-month period preceding the vote, or for
592 violation of any statute relating to the responsibilities of his
593 office, based upon the recommendation of a majority of the
594 remaining trustees.

595 (7) For community hospitals located in a county having a
596 population of less than one hundred thousand (100,000) according
597 to the most recent federal decennial census, the members of the
598 board of trustees, administrator and any other officials of the
599 community hospital as may be deemed necessary or proper by the
600 board of trustees shall be under bond in an amount not less than



601 Ten Thousand Dollars (\$10,000.00) nor more than One Hundred
602 Thousand Dollars (\$100,000.00) with some surety company authorized
603 to do business in the State of Mississippi to faithfully perform
604 the duties of his office. For community hospitals located in a
605 county having a population of one hundred thousand (100,000) or
606 more according to the most recent federal decennial census, the
607 bond shall be in an amount not less than Fifty Thousand Dollars
608 (\$50,000.00) nor more than Five Hundred Thousand Dollars
609 (\$500,000.00). Premiums for the bonds shall be paid from funds of
610 the community hospital.

611 (8) The members of the board of trustees of a community
612 hospital may, at the discretion of the board, choose to
613 participate in any hospital medical benefit plan or health
614 insurance plan, whether self-funded or otherwise, which may be in
615 effect for hospital employees. Any member of the board of
616 trustees choosing to participate in such plan shall pay the same
617 amount for his or her participation in the plan as hospital
618 employees are required to pay for their participation in such
619 plan.

620 **SECTION 3.** Section 37-115-50, Mississippi Code of 1972, is
621 amended as follows:

622 37-115-50. For purposes of Sections 37-115-50 * * * through
623 37-115-50.3, the following terms shall have the following
624 meanings:



625 (a) "Academic medical center" means the teaching,
626 research, and clinical facilities and services provided,
627 established, or operated by a public university under Chapter 115,
628 Title 37, Mississippi Code of 1972.

629 (b) "Health sciences school" means any school of
630 medicine, dentistry, nursing, pharmacy and any other health
631 care-related educational program operated or provided by an
632 academic medical center in this state.

633 (c) "Health care collaborative" means any consolidation
634 or collaboration involving the academic medical center and any
635 other public, private, for-profit or nonprofit health care
636 facilities and providers.

637 **SECTION 4.** The following shall be codified as Section
638 37-115-50.2, Mississippi Code of 1972:

639 37-115-50.2. (1) The Legislature finds and declares all of
640 the following:

641 (a) The academic medical center and health care
642 collaboratives organized under Section 37-115-50.1, together with
643 the Board of Trustees of State Institutions of Higher Learning
644 under which the academic medical center operates, are each (acting
645 individually and collectively) performing essential public
646 functions on behalf of the state, and other governmental entities
647 in the state.

648 (b) The needs of the residents of Mississippi can best
649 be served by the academic medical center and health care



650 collaboratives having the legal, financial and operational
651 flexibility to take full advantage of opportunities and challenges
652 presented by the evolving health care environment and to take
653 whatever actions are necessary to enable the academic medical
654 center and health care collaboratives' continuation as a health
655 system that provides the finest possible quality of care
656 consistent with reasonable costs and that serves the health care
657 needs of uninsured, underinsured residents in addition to its
658 scientific and educational missions.

659 (c) In this environment, the academic medical center
660 and its health care collaboratives must have the ability to
661 respond to changing conditions by having the power to develop
662 efficient and cost-effective methods and structures to provide for
663 health care needs, while maintaining a public mission and
664 character. In addition, the academic medical center is an
665 institution of the state. Accordingly, the Legislature finds that
666 there is a compelling interest in establishing a structure and
667 process for the academic medical center to adapt to this dynamic
668 environment, to operate efficiently, to offer competitive health
669 care services, to respond more effectively to new developments and
670 regulatory changes in the health care area, and to continue to
671 serve and promote the health, wellness and welfare of the citizens
672 of Mississippi. The acquisition, operation and financing of
673 hospitals and other health care facilities by the academic medical



674 are declared to be for a public and governmental purpose and a
675 matter of public necessity.

676 (d) The geographic areas served by the academic medical
677 center and its health care collaboratives include rural
678 populations and other groups that experience significant health
679 disparities. Health disparities are differences in health status
680 when compared to the population overall, often characterized by
681 indicators such as higher incidence of disease and/or disability,
682 increased mortality rates, and lower life expectancies. Rural
683 risk factors for health disparities include geographic isolation,
684 lower socioeconomic status, higher rates of health risk behaviors,
685 and limited access to health care specialists and subspecialists.
686 As a result of these health disparities, the residents of areas
687 served by the academic medical center and its health care
688 collaboratives have high rates of mortality and morbidity, heart
689 disease, cancer, and other illnesses. The areas also include a
690 high percentage of uninsured individuals and Medicaid patients,
691 which are medically underserved groups. The academic medical
692 center and its health care collaboratives have demonstrated their
693 ability to provide high quality health care and to improve health
694 conditions and outcomes as well as access to care. This section
695 and Section 37-115-50.3 will significantly strengthen the ability
696 of the academic medical center and its health care collaboratives
697 to serve the health care needs of the residents of their service
698 areas.



699 (e) The investment of significant public assets by the
700 academic medical center, the academic medical center's investment
701 in health care collaboratives and their collective efforts to
702 provide high quality health care services to medically underserved
703 populations are jeopardized by potential limits on the ability of
704 the academic medical center and its health care collaboratives to
705 collaborate and consolidate with other public, private and
706 nonprofit health care facilities and providers. The Legislature
707 expressly finds that the benefits of collaboration and
708 consolidation by the academic medical center and its health care
709 collaboratives outweigh any adverse impact on competition. The
710 benefits of the academic medical center and its health care
711 collaboratives efforts to collaborate and consolidate include, but
712 are not limited to, preserving and expanding needed health care
713 services in its service areas; consolidating unneeded or
714 duplicative health care services; enhancing the quality of, and
715 expanding access to, health care delivered to medically
716 underserved and rural populations; and lowering costs and
717 improving the efficiency of the health care services it delivers.
718 Based on the findings contained in this section, the Legislature
719 affirmatively expresses a policy to allow the academic medical
720 center and health care collaboratives to consolidate with
721 hospitals, health care facilities and other health care providers
722 and to engage in collaborative activities consistent with their
723 health care purposes, notwithstanding that those consolidations



724 and collaborations may have the effect of displacing competition
725 in the provision of hospital or other health care related
726 services. In engaging in such consolidations and collaborations
727 with other hospitals, health care facilities and providers, the
728 academic medical center and its health care collaboratives (acting
729 individually or collectively) shall be considered to be acting
730 pursuant to clearly articulated state policy as established in
731 this section and shall not be subject to federal or state
732 antitrust laws while so acting. With respect to the
733 consolidations, collaborative activities and other activities
734 contemplated in this section and Section 37-115-50.3, the academic
735 medical center and its health care collaboratives (acting
736 individually or collectively) and the public, private or nonprofit
737 entities with which it (or they) consolidate(s), collaborate(s),
738 or enter(s) into any of the transactions set forth in this section
739 and Section 37-115-50.3, shall be immune from liability under the
740 federal and state antitrust laws and those activities are provided
741 with state action immunity from federal and state antitrust laws
742 to the fullest extent possible.

743 (f) In furtherance of the findings and authorizations
744 contained in paragraph (e) of this section, if a court of
745 competent jurisdiction were to find that any of the activities of
746 the academic medical center and its health care collaboratives
747 (acting individually or collectively) authorized under this
748 section or Section 37-115-50.3 would be immune from the



749 application of state and federal antitrust laws under the state
750 action antitrust immunity doctrine pursuant to applicable
751 jurisprudence only if such activities were subject to what has
752 come to be known in relevant antitrust jurisprudence as "active
753 supervision" by the state, the Legislatures finds that the
754 academic medical center and its health care collaboratives are
755 subject to direct and indirect supervision of the Board of
756 Trustees of State Institutions of Higher Learning, which
757 supervision has been, is currently, and is required to continue to
758 be actively exercised by such constitutional body of state
759 government such that, even if such judicial requirement were
760 applied to the academic medical center and its health care
761 collaboratives with respect to application of the state action
762 antitrust immunity doctrine, the academic medical center and each
763 of its health care collaboratives (acting individually or
764 collectively), when exercising its powers under this section and
765 Section 37-115-50.3, shall enjoy immunity from the application of
766 state and federal antitrust laws.

767 **SECTION 5.** The following shall be codified as Section
768 37-115-50.3, Mississippi Code of 1972:

769 37-115-50.3 (1) In addition to all powers granted in
770 Section 37-115-50.1, subject to any required approval of the Board
771 of Trustees of State Institutions of Higher Learning, the academic
772 medical center and its health care collaboratives (acting



773 individually or collectively) shall be empowered under this
774 section:

775 (a) To acquire hospitals, health care facilities and
776 other health care-related operations and assets, through direct
777 purchase, merger, consolidation, lease or other means;

778 (b) To form, establish, fund and operate nonprofit
779 corporations, nonprofit limited liability companies,
780 state-sponsored entities or other similar organizations, either
781 directly or through a nonprofit corporation formed by the academic
782 medical center and its health care collaboratives (acting
783 individually or collectively), which are jointly owned with other
784 public or private hospitals, for-profit or nonprofit corporations,
785 or other health care-related organizations, for the purpose of
786 conducting activities within or outside of the service area the
787 academic medical center or its health care collaboratives for the
788 benefit of the academic medical center and its health care
789 collaboratives including, but not limited to, joint hospital
790 acquisitions, group purchasing, clinically integrated networks,
791 payor contracting, and joint requests for federal and state grants
792 and funding;

793 (c) To make capital contributions, loans, debt or
794 equity financing to or for any joint venture or similar
795 arrangement in which the academic medical center and its health
796 care collaboratives (acting individually or collectively), or any
797 nonprofit corporation formed or owned by the academic medical



798 center or one of its health care collaboratives, has or acquires
799 an ownership interest, and to guarantee loans and any other
800 obligations for such purposes;

801 (d) To have an ownership interest in, make capital
802 contributions to, and assume financial risk under, accountable
803 care organizations or similar organizations;

804 (e) To enter into any contract for a term of any
805 length, regardless of whether the length or term of the contract
806 exceeds the term of the board of trustees of a health care
807 collaborative;

808 (f) To create, establish, acquire, operate or support
809 subsidiaries and affiliates, either for-profit or nonprofit, to
810 assist the academic medical center and its health care
811 collaboratives (acting individually or collectively) in fulfilling
812 its purposes;

813 (g) To create, establish or support nonaffiliated
814 for-profit or nonprofit corporations or other lawful business
815 organizations that operate and have as their purposes the
816 furtherance of the purposes of the academic medical center and its
817 health care collaboratives (acting individually or collectively);

818 (h) Without limiting the generality of any provisions
819 of this section, to accomplish and facilitate the creation,
820 establishment, acquisition, operation or support of any such
821 subsidiary, affiliate, nonaffiliated corporation or other lawful
822 business organization, by means of loans of funds, acquisition or



823 transfer of assets, leases of real or personal property, gifts and
824 grants of funds or guarantees of indebtedness of such
825 subsidiaries, affiliates and nonaffiliated corporations; and

826 (i) Subject to the approval of the Board of Trustees of
827 State Institutions of Higher Learning (where applicable), to
828 exercise all powers granted under this section in such a manner as
829 the academic medical center and its health care collaboratives
830 (acting individually or collectively) may determine to be
831 consistent with the purposes of Sections 37-115-50 through
832 37-115-50.3, including the state action immunity provided by
833 Section 37-115-50.2 from state and federal antitrust laws to the
834 fullest extent possible, notwithstanding that as a consequence of
835 such exercise of such powers it engages in activities that may be
836 deemed "anticompetitive" or which displace competition within the
837 meaning or contemplation of the antitrust laws of this state or of
838 the United States.

839 **SECTION 6.** It is the intent of the Legislature that this act
840 be liberally construed so as to give effect to the intent,
841 purposes and findings described in this act.

842 **SECTION 7.** Section 75-21-13, Mississippi Code of 1972, is
843 amended as follows:

844 75-21-13. (1) No corporation shall acquire directly or
845 indirectly, the whole or any part of the capital stock of any
846 competing corporation doing business in this state, nor directly
847 or indirectly acquire the franchise, plant or equipment of any



848 other competing corporation doing business in this state if such
849 other corporation be engaged in the same kind of business and be a
850 competitor therein, where the effect of such acquisition of stock,
851 franchise, plant or equipment may be to substantially lessen
852 competition or to restrain trade or competition in the state, or
853 any community thereof, or tend to create a monopoly of any line of
854 commerce and will be inimical to public welfare. This section
855 shall not apply to corporations purchasing such stock in payment
856 of an indebtedness, and not using the same by voting, or
857 otherwise, to bring about or attempting to bring about, the
858 substantial lessening of competition. Provided, however, that
859 fire and marine insurance corporations may own stock in other
860 insurance companies and may be licensed to do business in this
861 state, or authorized to continue business in this state, but the
862 state insurance commissioner may refuse permission to any company
863 to be licensed in the first instance or he may subsequently revoke
864 the license of any company if it appears after notice and hearing
865 that to permit one (1) insurance corporation owning stock in a
866 competing corporation to continue to do business in this state
867 would be injurious to, or contrary to the public interest.

868 (2) The provisions of this chapter shall not apply to:

869 (a) Any action taken by a board of trustees of a
870 community hospital if acting in accordance with Section
871 41-13-35(5)(t) through (ff), including, but not limited to,
872 entering into agreements, collaboratives, mergers and other



873 similar arrangements with other public or private health
874 care-related organizations, or with for-profit or nonprofit
875 corporations, or other similar organizations;

876 (b) Any action taken by the academic medical center and
877 its health care collaboratives if acting in accordance with
878 Sections 37-115-50 through 37-115-50.3, including, but not limited
879 to, entering into agreements, collaboratives, mergers and other
880 similar arrangements with other public or private health
881 care-related organizations, or with for-profit or nonprofit
882 corporations, or other similar organizations; or

883 (c) Any action taken by a private hospital as defined
884 in Section 41-9-305 if acting in accordance with Sections 41-9-301
885 through 41-9-311.

886 **SECTION 8.** Section 41-9-301, Mississippi Code of 1972, is
887 amended as follows:

888 41-9-301. Sections 41-9-301 through 41-9-311 shall be known
889 and may be cited as the "Rural and Private Hospitals Health
890 Availability Act."

891 **SECTION 9.** Section 41-9-303, Mississippi Code of 1972, is
892 amended as follows:

893 41-9-303. The Legislature finds and declares the following:

894 (a) In rural areas, access to health care is limited
895 and the quality of health care is adversely affected by inadequate
896 reimbursement and collection rates and difficulty in recruiting
897 and retaining skilled health professionals.



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

900 (c) Rural hospitals' financial stability is threatened
901 by patient migration to general acute care and specialty hospitals
902 in urban areas.

903 (d) The availability of quality health care in rural
904 areas is essential to the economic and social viability of rural
905 communities.

906 (e) Cooperative agreements among rural hospitals would
907 improve the availability and quality of health care for
908 Mississippians in rural areas and enhance the likelihood that
909 rural hospitals can remain open.

910 (f) Cooperative agreements among private hospitals can
911 improve the availability and quality of health care for
912 Mississippians and enhance the overall likelihood that hospitals
913 in the state remain operational and continue to serve their
914 communities.

915 **SECTION 10.** Section 41-9-305, Mississippi Code of 1972, is
916 amended as follows:

917 41-9-305. For the purposes of Sections 41-9-301 through
918 41-9-311, the following terms shall have the following meanings:

919 (a) "Act" means the Rural and Private Hospitals Health
920 Availability Act.

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



- 923 (i) The applicant(s);
- 924 (ii) Any person residing within the geographic
925 service area of an applicant;
- 926 (iii) Health care purchasers who reimburse health
927 care facilities located in the geographic service area of an
928 applicant;
- 929 (iv) Any other person furnishing goods or services
930 to, or in competition with, an applicant; or
- 931 (v) Any other person who has notified the
932 department in writing of his interest in applications for
933 certificates of public advantage and has a direct economic
934 interest in the decision.

935 Notwithstanding the foregoing, persons from other states who
936 would otherwise be considered "affected persons" are not included,
937 unless that other state provides for similar involvement of
938 persons from Mississippi in a similar process in that state.

939 (c) "Board" means the State Board of Health established
940 under Section * * * 41-3-1.1.

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

944 (e) "Cooperative agreement" means a contract, business
945 or financial arrangement, or any other activities or practices
946 among two (2) or more rural hospitals, or involving any private
947 hospital in a rural or nonrural area, for the sharing, allocation,



948 or referral of patients; the sharing or allocation of personnel,
949 instructional programs, support services and facilities, medical,
950 diagnostic or laboratory facilities, procedures, equipment or
951 other health care services; the acquisition or merger of assets
952 among or by two (2) or more rural hospitals, or involving any
953 private hospital in a rural or nonrural area, including agreements
954 to negotiate jointly with respect to price or other competitive
955 terms with suppliers. The term "cooperative agreement" includes
956 any amendments thereto with respect to which a certificate of
957 public advantage has been issued or applied for or with respect to
958 which a certificate of public advantage is not required, unless
959 the context clearly requires otherwise.

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

962 (g) "Hospital" has the meaning set forth in Section
963 41-9-3.

964 (h) "Private hospital" means any for-profit or
965 nonprofit hospital or hospital system controlled by private
966 parties or in which private parties hold a majority interest.

967 (* * *i) "Rural area" means an area with a population
968 density of less than one hundred (100) individuals per square
969 mile; a municipality or county with a population of less than
970 seven thousand five hundred (7,500) individuals; or an area
971 defined by the most recent United States Census as rural.



972 (* * *j) "Rural hospital" means a private or community
973 hospital having at least one (1) but no more than seventy-five
974 (75) licensed acute-care beds that is located in a rural area.

975 (* * *k) "State" means the State of Mississippi.

976 (* * *l) "State Health Officer" means the State Health
977 Officer elected by the State Board of Health under Section * * *
978 41-3-5.1.

979 The use of a singular term in this section includes the
980 plural of that term, and the use of a plural term in this section
981 includes the singular of that term, unless the context clearly
982 requires another connotation.

983 **SECTION 11.** Section 41-9-307, Mississippi Code of 1972, is
984 amended as follows:

985 41-9-307. (1) A rural hospital and any corporation,
986 partnership, joint venture or any other entity, all of whose
987 principals are rural hospitals, may negotiate and enter into
988 cooperative agreements with other such persons in the state,
989 subject to receipt of a certificate of public advantage governing
990 the agreement as provided in this act.

991 (2) Any private hospital, whether in a rural or nonrural
992 area, and any other corporation, partnership, joint venture or any
993 other entity may negotiate and enter into cooperative agreements
994 with other such persons in the state, subject to receipt of a
995 certificate of public advantage governing the agreement as
996 provided in this act.



997 (* * *3) Parties to a cooperative agreement may apply to
998 the department for a certificate of public advantage governing
999 that cooperative agreement. The application must include an
1000 executed written copy of the cooperative agreement and describe
1001 the nature and scope of the cooperation in the agreement and any
1002 consideration passing to any party under the agreement. Within
1003 thirty (30) days of receipt of the application, the department may
1004 request additional information as may be necessary to complete the
1005 application. The applicant has thirty (30) days from the date of
1006 the request to submit the additional information. If the
1007 applicant fails to submit the requested information within the
1008 thirty-day period, or any extension of time granted by the
1009 department, the application is deemed withdrawn. The department
1010 may require an application fee from the submitting parties
1011 sufficient to cover the cost of processing the application.

1012 (* * *4) The department shall review the application in
1013 accordance with the standards set forth in subsection (* * *5) of
1014 this section. The department shall give notice of the application
1015 to members of the public who reside in the service areas of the
1016 applicant hospitals, which may be provided through newspapers of
1017 general circulation or public information channels. If requested
1018 by an affected person within thirty (30) days of the giving of the
1019 public notice, the department may hold a public hearing in
1020 accordance with the rules adopted by the board. The department
1021 shall grant or deny the application within sixty (60) days after



1022 receipt of a completed application or from the date of the public
1023 hearing, if one is held, and that decision, along with any
1024 conditions of approval, must be in writing and must set forth the
1025 basis for the decision. The department may establish conditions
1026 for approval that are reasonably necessary to ensure that the
1027 cooperative agreement and the activities engaged under it are
1028 consistent with the intent of this act and to ensure that the
1029 activity is appropriately supervised and regulated by the state.
1030 The department shall furnish a copy of the decision to the
1031 applicants and any affected persons who have asked in writing to
1032 be notified.

1033 (* * *5) The department shall issue a certificate of public
1034 advantage for a cooperative agreement if it determines that:

1035 (a) Each of the parties to the cooperative agreement
1036 is a rural hospital or is a corporation, partnership, joint
1037 venture or other entity all of whose principals are rural
1038 hospitals, or a private hospital is a party to the cooperative
1039 agreement;

1040 (b) The geographic service area of the rural hospitals
1041 or private hospitals who are parties to the agreement do not
1042 overlap significantly; and

1043 (c) The cooperative agreement is likely to result in
1044 one or more of the following benefits:

1045 (i) Enhancement of the quality of hospital and
1046 hospital-related care provided to Mississippi citizens;



1047 (ii) Preservation of hospital facilities and
1048 health care in rural and nonrural areas;
1049 (iii) Gains in the cost-efficiency of services
1050 provided by the hospitals involved;
1051 (iv) Encouragement of cost-sharing among the
1052 hospitals involved;
1053 (v) Improvements in the utilization of hospital
1054 resources and equipment; or
1055 (vi) Avoidance or reduction of duplication of
1056 hospital resources or expenses, including administrative expenses.

1057 (* * * 6) The department shall actively monitor and regulate
1058 agreements approved under this act, and may do so through
1059 conditions of approval of a certificate of public advantage, and
1060 may request information whenever necessary to ensure that the
1061 agreements remain in compliance with the conditions of approval.
1062 The department may charge an annual fee to cover the cost of
1063 monitoring and regulating these agreements. During the time the
1064 certificate is in effect, a report on the activities under the
1065 cooperative agreement must be filed with the department every two
1066 (2) years. The department shall review the report in order to
1067 determine that the cooperative agreement continues to comply with
1068 the terms of the certificate of public advantage.

1069 (* * * 7) The department shall revoke a certificate of
1070 public advantage by giving written notice to each party to a



1071 cooperative agreement with respect to which the certificate is
1072 being revoked, if it finds that:

1073 (a) The cooperative agreement or activities undertaken
1074 by it are not in substantial compliance with the terms of the
1075 application or the conditions of approval;

1076 (b) The likely benefits resulting from the cooperative
1077 agreement no longer exist; or

1078 (c) The department's approval was obtained as a result
1079 of intentional material misrepresentation to the department or as
1080 the result of coercion, threats or intimidation toward any party
1081 to the cooperative agreement.

1082 (* * * 8) The department shall maintain on file all
1083 cooperative agreements for which certificates of public advantage
1084 remain in effect. A party to a cooperative agreement who
1085 terminates or withdraws from the agreement shall notify the
1086 department within fifteen (15) days of the termination or
1087 withdrawal. If all parties terminate their participation in the
1088 cooperative agreement, the department shall revoke the certificate
1089 of public advantage for the agreement.

1090 (* * * 9) The parties to a cooperative agreement with
1091 respect to which a certificate of advantage is in effect must
1092 notify the department of any proposed amendment to the cooperative
1093 agreement, including an amendment to add an additional party but
1094 excluding an amendment to remove or to reflect the withdrawal of a
1095 party, before the amendment takes effect. The parties must apply



1096 to the department for a certificate of public advantage governing
1097 the amendment and the department shall consider and rule on the
1098 application in accordance with the procedures applicable to
1099 cooperative agreements generally.

1100 (* * *10) The department may promulgate rules and
1101 regulations in accordance with the Administrative Procedures Law
1102 as in effect from time to time to implement the provisions of this
1103 act, including any fees and application costs associated with the
1104 monitoring and oversight of cooperative agreements approved under
1105 this act.

1106 (* * *11) A dispute among the parties to a cooperative
1107 agreement concerning its meaning or terms is governed by the
1108 principles of contract law or any other applicable law.

1109 **SECTION 12.** This act shall take effect and be in force from
1110 and after its passage.

