SENATE BILL NO. 2323
(As Sent to Governor)

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

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

S. B. No. 2323 ~ OFFICIAL ~
SECTION 1. Section 41-13-35, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(c) To authorize employees to attend and to pay actual expenses incurred by employees while engaged in hospital business or in attending recognized educational or professional meetings;
(d) To enter into loan or scholarship agreements with employees or students to provide educational assistance where such student or employee agrees to work for a stipulated period of time for the hospital;

(e) To devise and implement employee incentive programs;

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

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

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

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

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

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

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

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

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

(o) To establish and operate medical offices, child care centers, wellness or fitness centers and other facilities and programs which the board determines are appropriate in the operation of a community hospital for the benefit of its employees, personnel and/or medical staff which shall be operated as an integral part of the hospital and which may, in the direction of the board of trustees, be offered to the general public. If such programs are not established in existing facilities or constructed on real estate previously acquired by the owners, the board of trustees shall also have authority to acquire, by lease or purchase, such facilities and real property within the service area, whether or not adjacent to existing facilities, provided that any contract for the purchase of real property shall be ratified by the owner. The trustees shall lease any such medical offices to members of the medical staff at rates deemed appropriate and may, in its discretion, establish rates to be paid for the use of other facilities or programs by its employees or personnel or members of the public whom the trustees may determine may properly use such other facilities or programs;
(p) Provide, at its discretion, ambulance service and/or to contract with any third party, public or private, for the providing of such service;

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

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

(s) To make any agreements or contracts with the federal government or any agency thereof, the State of Mississippi
or any agency thereof, and any county, city, town, supervisors
district or election district within this state, jointly or
separately, for the maintenance of charity facilities *
(t) To acquire hospitals, health care facilities and
other health care-related operations and assets, through direct
purchase, merger, consolidation, lease or other means;
(u) To enter into joint ventures, joint-operating
agreements or similar arrangements with other public or private
health care-related organizations, or with for-profit or nonprofit
corporations, for-profit or nonprofit limited liability companies
or other similar organizations, either directly or through a
nonprofit corporation formed or owned by the community hospital,
for the joint operation of all or part of the community hospital,
or the joint operation of any health care facilities or health
care services, and in doing so, to convey the community hospital's
assets, service lines or facilities to the joint venture or to any
other organization or entity for fair market value, and to provide
for contracts of employment or contracts for services and
ownership of property that will protect the public interest;
(v) To form, establish, fund and operate nonprofit
corporations, nonprofit limited liability companies,
state-sponsored entities or other similar organizations, either
directly or through a nonprofit corporation formed by the
community hospital, which are jointly owned with other public or
private hospitals, for-profit or nonprofit corporations, or other
health care-related organizations, for the purpose of conducting activities within or outside of the community hospital's service area for the benefit of the community hospital, including, but not limited to, joint hospital acquisitions, group purchasing, clinically integrated networks, payor contracting, and joint requests for federal and state grants and funding;

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

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

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

(z) To enter into any contract for a term of any length, regardless of whether the length or term of the contract exceeds the term of the board of trustees of the community hospital;
(aa) To elect some, any or all of the members of the board of directors of any nonprofit corporation of which the community hospital is a member;

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

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

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

(ee) To exercise all powers granted under this section in such a manner as the community hospital, through its board of trustees, may determine to be consistent with the purposes of this chapter, including the state action immunity provided by this section from state and federal antitrust laws to the fullest extent possible, notwithstanding that as a consequence of such
exercise of such powers it engages in activities that may be
deemed "anticompetitive" or which displace competition within the
meaning or contemplation of the antitrust laws of this state or of
the United States; and

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

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

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

(8) The Legislature finds and declares as follows:

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

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

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

(d) The community hospitals' investment of significant
public assets and their efforts to provide high quality health
care services to medically underserved populations are jeopardized
by potential limits on the ability of community hospitals to 
collaborate and consolidate with other public, private, for-profit 
and nonprofit health care facilities and providers. The 
Legislature expressly finds that the benefits of collaboration and 
consolidation by the community hospitals outweigh any adverse 
impact on competition. The benefits of the community hospitals' 
efforts to collaborate and consolidate include, but are not 
limited to, preserving and expanding needed health care services 
in its service area; consolidating unneeded or duplicative health 
care services; enhancing the quality of, and expanding access to, 
health care delivered to medically underserved and rural 
populations; and lowering costs and improving the efficiency of 
the health care services it delivers. Based on the findings 
contained in this section, the Legislature affirmatively expresses 
a policy to allow community hospitals to consolidate with other 
public, private, for-profit or nonprofit hospitals, health care 
facilities and providers and to engage in collaborative activities 
consistent with their health care purposes, notwithstanding that 
those consolidations and collaborations may have the effect of 
displacing competition in the provision of hospital or other 
health care-related services. In engaging in such consolidations 
and collaborations with other public, private, for-profit or 
nonprofit hospitals, health care facilities and providers, the 
community hospital shall be considered to be acting pursuant to 
clearly articulated state policy as established in this section
and shall not be subject to federal or state antitrust laws while so acting. With respect to the consolidations, collaborative activities and other activities contemplated in this section, the community hospital and the public, private, for-profit or nonprofit entities with which it consolidates, collaborates, or enters into any of the transactions set forth in this act, shall be immune from liability under the federal and state antitrust laws and those activities are provided with state action immunity from federal and state antitrust laws to the fullest extent possible.

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

41-13-29. (1) (a) The owners are authorized to appoint trustees for the purpose of operating and governing community hospitals. The owner of a community hospital may remove a trustee after appointment for good cause shown, upon a unanimous vote of all members of the governing board of the owner that appointed the trustee, or upon a majority vote of the governing board of the owner that appointed the trustee after a recommendation from the board of trustees of the hospital that the trustee be removed. To be eligible for appointment, an appointee must be an adult legal resident of the county which has an ownership interest in the community hospital or the county in which the municipality or other political subdivision holding the ownership interest in the community hospital is located. The authority to appoint trustees
shall not apply to leased facilities, unless specifically reserved by the owner in the applicable lease agreement.

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

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

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

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

(3) (a) Any community hospital erected, owned, maintained
and operated by any county located in the geographical center of
the State of Mississippi and in which State Highways No. 12 and No. 35 intersect, shall be operated by a board of trustees of five (5) members who have the qualifications set forth in this section to be appointed by the board of supervisors from the county at large, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, and one (1) for a term of five (5) years. Thereafter all trustees shall be appointed from the county at large for a period of five (5) years.

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

(c) Any hospital erected, owned, maintained and operated by any county having two (2) judicial districts, which is traversed by U.S. Interstate Highway 59, which intersects Highway 84 therein, shall be operated by a board of trustees which shall consist of seven (7) members who have the qualifications set forth in this section. The first seven (7) members appointed under authority of this paragraph shall be appointed by the board of supervisors for terms as follows:
Each supervisor of Supervisors Districts One and Two shall nominate and the board of supervisors shall appoint one (1) person from each **such** beat for a one-year term. Each supervisor of Supervisors Districts Three and Four shall nominate and the board of supervisors shall appoint one (1) person from each beat for a two-year term. The supervisor of Supervisors District Five shall nominate and the board of supervisors shall appoint one (1) person from the beat for a three-year term. The medical staff at the hospital shall submit a list of four (4) nominees and the supervisors shall appoint two (2) trustees from the list of nominees, one (1) for a three-year term and one (1) for a one-year term. Thereafter, as the terms of the board of trustee members authorized by this paragraph expire, all but the trustee originally appointed from the medical staff nominees for a one-year term shall be appointed by the board of supervisors for terms of three (3) years. The term of the trustee originally appointed from the medical staff nominees by the board of supervisors for a term of one (1) year shall remain a term of one (1) year and shall thereafter be appointed for a term of one (1) year. The two (2) members appointed from medical staff nominees shall be appointed from a list of two (2) nominees for each position to be submitted by the medical staff of the hospital for each vacancy to be filled. It is the intent of the Legislature that the board of trustees which existed prior to July 1, 1985, was abolished by amendment to this section under Section 5,
Chapter 511, Laws of 1985, and the amendment authorized the appointment of a new board of trustees on or after July 1, 1985, in the manner provided in this paragraph. Any member of the board of trustees which existed before July 1, 1985, who has the qualifications set forth in this section shall be eligible for reappointment subject to the provisions of this paragraph.

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

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

(4) Any community hospital owned, maintained and operated by any county wherein Mississippi Highways 16 and 19 intersect,
having a land area of five hundred sixty-eight (568) square miles, and having a population in excess of twenty-three thousand seven hundred (23,700) according to the 1980 federal decennial census, shall be operated by a board of trustees of five (5) members who have the qualifications set forth in this section, one (1) of whom shall be elected by the qualified electors of each supervisors district of the county in the manner provided herein. Each member so elected shall be a resident and qualified elector of the district from which he is elected. The first elected members of the board of trustees shall be elected at the regular general election held on November 4, 1986. At the election, the members of the board from Supervisors Districts One and Two shall be elected for a term of six (6) years; members of the board from Supervisors Districts Three and Four shall be elected for a term of two (2) years; and the member of the board from Supervisors District Five shall be elected for a term of four (4) years. Each subsequent member of the board shall be elected for a term of six (6) years at the same time as the general election in which the member of the county board of education representing the same supervisors district is elected. All members of the board shall take office on the first Monday of January following the date of their election. The terms of all seven (7) appointed members of the board of trustees holding office on the effective date of this act (Laws 1986, Chapter 462) shall expire on the date that the first elected members of the board take office. The board of
trustees provided for herein shall not lease or sell the community hospital property under its jurisdiction unless the board of supervisors of the county calls for an election on the proposition and a majority voting in the election shall approve the lease or sale.

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

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

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

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

(7) For community hospitals located in a county having a population of less than one hundred thousand (100,000) according to the most recent federal decennial census, the members of the board of trustees, administrator and any other officials of the community hospital as may be deemed necessary or proper by the board of trustees shall be under bond in an amount not less than
Ten Thousand Dollars ($10,000.00) nor more than One Hundred Thousand Dollars ($100,000.00) with some surety company authorized to do business in the State of Mississippi to faithfully perform the duties of his office. For community hospitals located in a county having a population of one hundred thousand (100,000) or more according to the most recent federal decennial census, the bond shall be in an amount not less than Fifty Thousand Dollars ($50,000.00) nor more than Five Hundred Thousand Dollars ($500,000.00). Premiums for the bonds shall be paid from funds of the community hospital.

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

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

37-115-50. For purposes of Sections 37-115-50 ** through 37-115-50.3, the following terms shall have the following meanings:
(a) "Academic medical center" means the teaching, research, and clinical facilities and services provided, established, or operated by a public university under Chapter 115, Title 37, Mississippi Code of 1972.

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

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

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

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

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

(b) The needs of the residents of Mississippi can best be served by the academic medical center and health care
collaboratives having the legal, financial and operational flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment and to take whatever actions are necessary to enable the academic medical center and health care collaboratives' continuation as a health system that provides the finest possible quality of care consistent with reasonable costs and that serves the health care needs of uninsured, underinsured residents in addition to its scientific and educational missions.

(c) In this environment, the academic medical center and its health care collaboratives must have the ability to respond to changing conditions by having the power to develop efficient and cost-effective methods and structures to provide for health care needs, while maintaining a public mission and character. In addition, the academic medical center is an institution of the state. Accordingly, the Legislature finds that there is a compelling interest in establishing a structure and process for the academic medical center to adapt to this dynamic environment, to operate efficiently, to offer competitive health care services, to respond more effectively to new developments and regulatory changes in the health care area, and to continue to serve and promote the health, wellness and welfare of the citizens of Mississippi. The acquisition, operation and financing of hospitals and other health care facilities by the academic medical
are declared to be for a public and governmental purpose and a
matter of public necessity.
(d) The geographic areas served by the academic medical
center and its health care collaboratives include rural
populations and other groups that experience significant health
disparities. Health disparities are differences in health status
when compared to the population overall, often characterized by
indicators such as higher incidence of disease and/or disability,
increased mortality rates, and lower life expectancies. Rural
risk factors for health disparities include geographic isolation,
lower socioeconomic status, higher rates of health risk behaviors,
and limited access to health care specialists and subspecialists.
As a result of these health disparities, the residents of areas
served by the academic medical center and its health care
collaboratives have high rates of mortality and morbidity, heart
disease, cancer, and other illnesses. The areas also include a
high percentage of uninsured individuals and Medicaid patients,
which are medically underserved groups. The academic medical
center and its health care collaboratives have demonstrated their
ability to provide high quality health care and to improve health
conditions and outcomes as well as access to care. This section
and Section 37-115-50.3 will significantly strengthen the ability
of the academic medical center and its health care collaboratives
to serve the health care needs of the residents of their service
areas.
(e) The investment of significant public assets by the academic medical center, the academic medical center's investment in health care collaboratives and their collective efforts to provide high quality health care services to medically underserved populations are jeopardized by potential limits on the ability of the academic medical center and its health care collaboratives to collaborate and consolidate with other public, private and nonprofit health care facilities and providers. The Legislature expressly finds that the benefits of collaboration and consolidation by the academic medical center and its health care collaboratives outweigh any adverse impact on competition. The benefits of the academic medical center and its health care collaboratives efforts to collaborate and consolidate include, but are not limited to, preserving and expanding needed health care services in its service areas; consolidating unneeded or duplicative health care services; enhancing the quality of, and expanding access to, health care delivered to medically underserved and rural populations; and lowering costs and improving the efficiency of the health care services it delivers. Based on the findings contained in this section, the Legislature affirmatively expresses a policy to allow the academic medical center and health care collaboratives to consolidate with hospitals, health care facilities and other health care providers and to engage in collaborative activities consistent with their health care purposes, notwithstanding that those consolidations
and collaborations may have the effect of displacing competition
in the provision of hospital or other health care related
services. In engaging in such consolidations and collaborations
with other hospitals, health care facilities and providers, the
academic medical center and its health care collaboratives (acting
individually or collectively) shall be considered to be acting
pursuant to clearly articulated state policy as established in
this section and shall not be subject to federal or state
antitrust laws while so acting. With respect to the
consolidations, collaborative activities and other activities
contemplated in this section and Section 37-115-50.3, the academic
medical center and its health care collaboratives (acting
individually or collectively) and the public, private or nonprofit
entities with which it (or they) consolidate(s), collaborate(s),
or enter(s) into any of the transactions set forth in this section
and Section 37-115-50.3, shall be immune from liability under the
federal and state antitrust laws and those activities are provided
with state action immunity from federal and state antitrust laws
to the fullest extent possible.

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

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

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

37-115-50.3 (1) In addition to all powers granted in 
Section 37-115-50.1, subject to any required approval of the Board 
of Trustees of State Institutions of Higher Learning, the academic 
medical center and its health care collaboratives (acting
individually or collectively) shall be empowered under this section:

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

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

(c) To make capital contributions, loans, debt or equity financing to or for any joint venture or similar arrangement in which the academic medical center and its health care collaboratives (acting individually or collectively), or any nonprofit corporation formed or owned by the academic medical
center or one of its health care collaboratives, has or acquires
an ownership interest, and to guarantee loans and any other
obligations for such purposes;

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

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

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

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

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

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

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

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

   75-21-13. (1) No corporation shall acquire directly or
indirectly, the whole or any part of the capital stock of any
competing corporation doing business in this state, nor directly
or indirectly acquire the franchise, plant or equipment of any
other competing corporation doing business in this state if such
other corporation be engaged in the same kind of business and be a
competitor therein, where the effect of such acquisition of stock,
franchise, plant or equipment may be to substantially lessen
competition or to restrain trade or competition in the state, or
any community thereof, or tend to create a monopoly of any line of
commerce and will be inimical to public welfare. This section
shall not apply to corporations purchasing such stock in payment
of an indebtedness, and not using the same by voting, or
otherwise, to bring about or attempting to bring about, the
substantial lessening of competition. Provided, however, that
fire and marine insurance corporations may own stock in other
insurance companies and may be licensed to do business in this
state, or authorized to continue business in this state, but the
state insurance commissioner may refuse permission to any company
to be licensed in the first instance or he may subsequently revoke
the license of any company if it appears after notice and hearing
that to permit one (1) insurance corporation owning stock in a
competing corporation to continue to do business in this state
would be injurious to, or contrary to the public interest.

(2) The provisions of this chapter shall not apply to:
(a) Any action taken by a board of trustees of a
community hospital if acting in accordance with Section
41-13-35(5)(t) through (ff), including, but not limited to,
entering into agreements, collaboratives, mergers and other
similar arrangements with other public or private health
care-related organizations, or with for-profit or nonprofit
corporations, or other similar organizations;
(b) Any action taken by the academic medical center and
its health care collaboratives if acting in accordance with
Sections 37-115-50 through 37-115-50.3, including, but not limited
to, entering into agreements, collaboratives, mergers and other
similar arrangements with other public or private health
care-related organizations, or with for-profit or nonprofit
corporations, or other similar organizations; or
(c) Any action taken by a private hospital as defined
in Section 41-9-305 if acting in accordance with Sections 41-9-301
through 41-9-311.

SECTION 8. Section 41-9-301, Mississippi Code of 1972, is
amended as follows:
41-9-301. Sections 41-9-301 through 41-9-311 shall be known
and may be cited as the "Rural and Private Hospitals Health
Availability Act."

SECTION 9. Section 41-9-303, Mississippi Code of 1972, is
amended as follows:
41-9-303. The Legislature finds and declares the following:
(a) In rural areas, access to health care is limited
and the quality of health care is adversely affected by inadequate
reimbursement and collection rates and difficulty in recruiting
and retaining skilled health professionals.
(b) There is limited, if any, overlap in the geographic service areas of Mississippi rural hospitals.

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

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

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

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

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

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

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

(b) "Affected person," with respect to any application for a certificate of public advantage, means:
(i) The applicant(s);

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

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

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

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

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

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

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

(e) "Cooperative agreement" means a contract, business or financial arrangement, or any other activities or practices among two (2) or more rural hospitals, or involving any private hospital in a rural or nonrural area, for the sharing, allocation,
or referral of patients; the sharing or allocation of personnel, 
instructional programs, support services and facilities, medical, 
diagnostic or laboratory facilities, procedures, equipment or 
other health care services; the acquisition or merger of assets 
among or by two (2) or more rural hospitals, or involving any 
private hospital in a rural or nonrural area, including agreements 
to negotiate jointly with respect to price or other competitive 
terms with suppliers. The term "cooperative agreement" includes 
any amendments thereto with respect to which a certificate of 
public advantage has been issued or applied for or with respect to 
which a certificate of public advantage is not required, unless 
the context clearly requires otherwise.

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

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

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

*i* "Rural area" means an area with a population 
density of less than one hundred (100) individuals per square 
mile; a municipality or county with a population of less than 
seven thousand five hundred (7,500) individuals; or an area 
defined by the most recent United States Census as rural.
"Rural hospital" means a private or community hospital having at least one (1) but no more than seventy-five (75) licensed acute-care beds that is located in a rural area.

"State" means the State of Mississippi.

"State Health Officer" means the State Health Officer elected by the State Board of Health under Section 41-3-5.1.

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

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

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

(2) Any private hospital, whether in a rural or nonrural area, and any other corporation, partnership, joint venture or any other entity may negotiate and enter into cooperative agreements with other such persons in the state, subject to receipt of a certificate of public advantage governing the agreement as provided in this act.
Parties to a cooperative agreement may apply to the department for a certificate of public advantage governing that cooperative agreement. The application must include an executed written copy of the cooperative agreement and describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement. Within thirty (30) days of receipt of the application, the department may request additional information as may be necessary to complete the application. The applicant has thirty (30) days from the date of the request to submit the additional information. If the applicant fails to submit the requested information within the thirty-day period, or any extension of time granted by the department, the application is deemed withdrawn. The department may require an application fee from the submitting parties sufficient to cover the cost of processing the application.

The department shall review the application in accordance with the standards set forth in subsection (6) of this section. The department shall give notice of the application to members of the public who reside in the service areas of the applicant hospitals, which may be provided through newspapers of general circulation or public information channels. If requested by an affected person within thirty (30) days of the giving of the public notice, the department may hold a public hearing in accordance with the rules adopted by the board. The department shall grant or deny the application within sixty (60) days after
receipt of a completed application or from the date of the public hearing, if one is held, and that decision, along with any conditions of approval, must be in writing and must set forth the basis for the decision. The department may establish conditions for approval that are reasonably necessary to ensure that the cooperative agreement and the activities engaged under it are consistent with the intent of this act and to ensure that the activity is appropriately supervised and regulated by the state.

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

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

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

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

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

(i) Enhancement of the quality of hospital and hospital-related care provided to Mississippi citizens;
(ii) Preservation of hospital facilities and health care in rural and nonrural areas;

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

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

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

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

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

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

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

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

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

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

(* * *) The parties to a cooperative agreement with respect to which a certificate of advantage is in effect must notify the department of any proposed amendment to the cooperative agreement, including an amendment to add an additional party but excluding an amendment to remove or to reflect the withdrawal of a party, before the amendment takes effect. The parties must apply
to the department for a certificate of public advantage governing
the amendment and the department shall consider and rule on the
application in accordance with the procedures applicable to
cooperative agreements generally.

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

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

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