

By: Representatives Moody, Masterson, Clarke

To: Public Health and
WelfareCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1220

1 AN ACT TO CREATE A PROGRAM OF PAID EDUCATIONAL LEAVE FOR
2 HOSPITAL EMPLOYEES; TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF
3 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) (a) A hospital may grant paid educational
6 leave to those applicants it deems qualified therefor, upon such
7 terms and conditions as it may impose and as provided for in this
8 section.

9 (b) In order to be eligible for paid educational leave,
10 an applicant must:

11 (i) Be working at the sponsoring hospital at the
12 time of application;

13 (ii) Attend any college or school approved and
14 designated by the sponsoring hospital; and

15 (iii) Agree to work in a health care occupation as
16 a licensed practical nurse, registered nurse, nurse practitioner,
17 speech pathologist, occupational therapist, physical therapist or
18 other health care professional in the sponsoring hospital for a
19 period of time equivalent to the period of time for which the
20 applicant receives paid educational leave compensation, calculated
21 to the nearest whole month, but in no event less than two (2)
22 years.

23 (c) (i) Before being granted paid educational leave,
24 each applicant shall enter into a contract with the sponsoring
25 hospital agreeing to the terms and conditions upon which the paid
26 educational leave shall be granted. The contract shall include
27 such terms and provisions necessary to carry out the full purpose



28 and intent of this section. The contract shall be signed by the
29 administrator of the sponsoring hospital and the recipient of paid
30 educational leave compensation. If the recipient is a minor, his
31 or her minority disabilities shall be removed by a chancery court
32 of competent jurisdiction before the contract is signed.

33 (ii) The sponsoring hospital shall have the
34 authority to cancel any contract made between it and any recipient
35 for paid educational leave upon such cause being deemed sufficient
36 by the administrator of the hospital.

37 (iii) The sponsoring hospital is vested with full
38 and complete authority and power to sue in its own name any
39 recipient for any balance due to the hospital on any such
40 uncompleted contract. The sponsoring hospital may contract with a
41 collection agency or banking institution for collection of any
42 balance due to the hospital from any recipient. The sponsoring
43 hospital and its employees and, if applicable, its board of
44 trustees are immune from any suit brought in law or equity for
45 actions taken by the collection agency or banking institution
46 incidental to or arising from their performance under the
47 contract. The sponsoring hospital, collection agency and banking
48 institution may negotiate for the payment of a sum that is less
49 than full payment in order to satisfy any balance the recipient
50 owes.

51 (iv) Failure to meet the terms of an educational
52 loan contract shall be grounds for revocation of the professional
53 license that was earned through the paid educational leave
54 compensation granted under this section.

55 (v) A finding by the sponsoring hospital of a
56 default by the recipient shall be a finding of unprofessional
57 conduct and, therefore, a basis for the revocation of the
58 professional license that was obtained through the educational
59 leave program.



60 (vi) Notice of pending default status, the
61 consequences of a default and the hearing to determine the pending
62 default status shall be mailed by the sponsoring hospital to the
63 recipient at the last known address.

64 (vii) The sponsoring hospital shall conduct a
65 hearing of pending default status, make a final determination,
66 and, if appropriate, issue a finding of default.

67 (viii) Recipients may appear at the hearing of
68 pending default status, either personally or through counsel, or
69 both, and produce and cross-examine witnesses or evidence in the
70 recipient's behalf. The procedure of the hearing shall not be
71 bound by the Mississippi Rules of Civil Procedure and Evidence.

72 (ix) If at the hearing a recipient is found to be
73 in default, a copy of the finding of default shall be forwarded to
74 the appropriate licensing agency.

75 (x) Appeals from a finding of default made by the
76 sponsoring hospital shall be to the circuit court of the county in
77 which the hospital is located.

78 (xi) Rules and regulations governing the hearing
79 of pending default status and other applicable matters shall be
80 promulgated by the sponsoring hospital.

81 (xii) Any person who is subject to the revocation
82 of his or her professional license for not meeting the terms of an
83 educational loan contract may appear before the appropriate
84 licensing agency to show mitigating circumstances for failure to
85 meet the terms of the contract, and may appeal any revocation of
86 his or her professional license under the laws applicable to the
87 licensing agency.

88 (xiii) A license that has been revoked under this
89 section shall be reinstated upon a showing of proof that the
90 recipient is no longer in default.

91 (2) (a) Any recipient who is granted paid educational leave
92 by a hospital shall be compensated by the sponsoring hospital



93 during the time the recipient is in school, at the rate of pay
94 received by a nurse's aide employed at the hospital. All
95 educational leave compensation received by the recipient while in
96 school shall be considered earned conditioned upon the fulfillment
97 of the terms and obligations of the educational leave contract and
98 this section. However, no recipient of full-time educational
99 leave shall accrue personal or major medical leave while the
100 recipient is on paid educational leave. Recipients of paid
101 educational leave shall be responsible for their individual costs
102 of tuition and books.

103 (b) Paid educational leave shall be granted only upon
104 the following conditions:

105 (i) The recipient shall fulfill his or her
106 obligation under the contract with the sponsoring hospital by
107 working as a licensed practical nurse, registered nurse, nurse
108 practitioner, speech pathologist, occupational therapist, physical
109 therapist or other health care professional. The total
110 compensation that the recipient was paid while on educational
111 leave shall be considered as unconditionally earned on an annual
112 pro rata basis for each year of service rendered under the
113 educational leave contract as a health care professional in the
114 sponsoring hospital.

115 (ii) If the recipient does not work as a licensed
116 practical nurse, registered nurse, nurse practitioner, speech
117 pathologist, occupational therapist, physical therapist or other
118 health care professional in the sponsoring hospital for the period
119 required under this section, the recipient shall be liable for
120 repayment on demand of the remaining portion of the compensation
121 that the recipient was paid while on paid educational leave that
122 has not been unconditionally earned, with interest accruing at ten
123 percent (10%) per annum from the recipient's date of graduation or
124 the date that the recipient last worked at the sponsoring
125 hospital, whichever is the later date. In addition, there shall



be included in any contract for paid educational leave a provision for liquidated damages equal to Five Thousand Dollars (\$5,000.00), which may be reduced on a pro rata basis for each year served under the contract.

(iii) If any recipient fails or withdraws from school at any time before successfully completing his or her health care training, the recipient shall be liable for repayment on demand of the amount of the total compensation that the recipient was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, the recipient shall not be liable for liquidated damages, and if the recipient returns to work at the sponsoring hospital in the same position held at the hospital before accepting educational leave, or a position approved by the hospital, the recipient shall not be liable for payment of any interest on the amount owed.

(iv) The issuance and renewal of the professional license required to work as a licensed practical nurse, registered nurse, nurse practitioner, speech pathologist, occupational therapist, physical therapist or other health care professional for which the educational leave was granted shall be contingent upon the repayment of the total compensation that the recipient received while on paid educational leave. Failure to meet the terms of an educational loan contract shall be grounds for revocation of the professional license that was earned through the paid educational leave compensation granted under this section. Any individual who receives any amount of paid educational leave compensation while in school and subsequently receives a professional license shall be deemed to have earned the professional license through paid educational leave. Any person who is subject to the revocation of his or her professional license for not meeting the terms of an educational loan contract may appear before the appropriate licensing agency to show



mitigating circumstances for failure to meet the terms of the contract, and may appeal any revocation of his or her professional license under the laws applicable to the licensing agency.

SECTION 2. 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 said board of trustees of the community hospital shall be valid and binding unless expressly prohibited by applicable statutory or constitutional provisions.



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

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

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

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

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

213 (e) To devise and implement employee incentive
214 programs;

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



223 hospital and/or the health and welfare of the citizens of the
224 service area;

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

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

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

246 (j) To let contracts for the construction, remodeling,
247 expansion or acquisition, by lease or purchase, of hospital or
248 health care facilities, including real property, within the
249 service area for community hospital purposes where such may be
250 done with operational funds without encumbrancing the general
251 funds of the county or municipality, provided that any contract
252 for the purchase of real property must be ratified by the owner;

253 (k) To borrow money and enter other financing
254 arrangements for community hospital and related purposes and to
255 grant security interests in hospital equipment 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 which 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; and

(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 develop a paid educational leave program for the study of certain health care occupations, including a licensed practical nurse, registered nurse, nurse practitioner, speech pathologist, occupational therapist, physical therapist and other health care occupations by an employee who works at the community hospital and who declares an intention to work in that respective health care occupation in the same hospital in which the employee was working when granted educational leave, for a minimum period of time after graduation in accordance with Section 1 of House Bill No. 1220, 2003 Regular Session.

(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



354 not-for-profit or for-profit organization which, regardless of its
355 stated purpose of incorporation, provides assistance in the form
356 of grants of money or property to community hospitals or provides
357 services to community hospitals in the form of performance of
358 functions normally associated with the operations of a hospital.

359 **SECTION 3.** Section 1 of this act shall be codified in
360 Chapter 9 of Title 41, Mississippi Code of 1972.

361 **SECTION 4.** This act shall take effect and be in force from
362 and after July 1, 2003.

