

By: Representatives Smith (39th), Read,  
Reeves, Scott

To: Public Health and Human  
Services

HOUSE BILL NO. 940

1 AN ACT TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THAT COMMUNITY HOSPITALS MAY USE OTHER HOSPITAL ASSETS  
3 AS LOAN SECURITY; AND FOR RELATED PURPOSES.

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

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

7 41-13-35. (1) The board of trustees of any community  
8 hospital shall have full authority to appoint an administrator,  
9 who shall not be a member of the board of trustees, and to  
10 delegate reasonable authority to such administrator for the  
11 operation and maintenance of such hospital and all property and  
12 facilities otherwise appertaining thereto.

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21 be withdrawn or nullified at the next subsequent meeting of the  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

24 (3) The board of trustees shall be responsible for governing  
25 the community hospital under its control and shall make and  
26 enforce staff and hospital bylaws and/or rules and regulations  
27 necessary for the administration, government, maintenance and/or

28 expansion of such hospitals. The board of trustees shall keep  
29 minutes of its official business and shall comply with Section  
30 41-9-68.

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

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

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

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

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

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

56 (e) To devise and implement employee incentive  
57 programs;

58 (f) To recruit and financially assist physicians and  
59 other health care practitioners in establishing, or relocating  
60 practices within the service area of the community hospital

61 including, without limitation, direct and indirect financial  
62 assistance, loan agreements, agreements guaranteeing minimum  
63 incomes for a stipulated period from opening of the practice and  
64 providing free office space or reduced rental rates for office  
65 space where such recruitment would directly benefit the community  
66 hospital and/or the health and welfare of the citizens of the  
67 service area;

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

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

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

89 (j) To let contracts for the construction, remodeling,  
90 expansion or acquisition, by lease or purchase, of hospital or  
91 health care facilities, including real property, within the  
92 service area for community hospital purposes where such may be  
93 done with operational funds without encumbering the general

94 funds of the county or municipality, provided that any contract  
95 for the purchase of real property must be ratified by the owner;

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

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

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

120 (n) To promote, develop, acquire, operate and maintain  
121 on a nonprofit basis, or on a profit basis if the community  
122 hospital's share of profits is used solely for community hospital  
123 and related purposes in accordance with this chapter, either  
124 separately or jointly with one or more other hospitals or  
125 health-related organizations, facilities and equipment for  
126 providing goods, services and programs for hospitals, other health

127 care providers, and other persons or entities in need of such  
128 goods, services and programs and, in doing so, to provide for  
129 contracts of employment or contracts for services and ownership of  
130 property on terms that will protect the public interest;

131 (o) To establish and operate medical offices, child  
132 care centers, wellness or fitness centers and other facilities and  
133 programs which the board determines are appropriate in the  
134 operation of a community hospital for the benefit of its  
135 employees, personnel and/or medical staff which shall be operated  
136 as an integral part of the hospital and which may, in the  
137 direction of the board of trustees, be offered to the general  
138 public. If such programs are not established in existing  
139 facilities or constructed on real estate previously acquired by  
140 the owners, the board of trustees shall also have authority to  
141 acquire, by lease or purchase, such facilities and real property  
142 within the service area, whether or not adjacent to existing  
143 facilities, provided that any contract for the purchase of real  
144 property shall be ratified by the owner. The trustees shall lease  
145 any such medical offices to members of the medical staff at rates  
146 deemed appropriate and may, in its discretion, establish rates to  
147 be paid for the use of other facilities or programs by its  
148 employees or personnel or members of the public whom the trustees  
149 may determine may properly use such other facilities or programs;

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

153 (q) Establish a fair and equitable system for the  
154 billing of patients for care or users of services received through  
155 the community hospital, which in the exercise of the board of  
156 trustees' prudent fiscal discretion, may allow for rates to be  
157 classified according to the potential usage by an identified group  
158 or groups of patients of the community hospital's services and may  
159 allow for standard discounts where the discount is designed to

160 reduce the operating costs or increase the revenues of the  
161 community hospital. Such billing system may also allow for the  
162 payment of charges by means of a credit card or similar device and  
163 allow for payment of administrative fees as may be regularly  
164 imposed by a banking institution or other credit service  
165 organization for the use of such cards;

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

173 (s) To make any agreements or contracts with the  
174 federal government or any agency thereof, the State of Mississippi  
175 or any agency thereof, and any county, city, town, supervisors  
176 district or election district within this state, jointly or  
177 separately, for the maintenance of charity facilities.

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

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

192           **SECTION 2.** This act shall take effect and be in force from  
193 and after July 1, 2004.