

By: Senator(s) Robertson, Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2544

1 AN ACT TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE AUTHORITY OF COMMUNITY HOSPITALS TO PLEDGE ASSETS
3 AS SECURITY FOR THE ISSUANCE OF DEBT; 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21 be withdrawn or nullified at the next subsequent meeting of the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.