

By: Representative Creekmore IV

To: Public Health and Human Services

HOUSE BILL NO. 1639

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI RURAL REGIONAL HEALTH
2 AUTHORITIES ACT OF 2024; TO DECLARE THE LEGISLATIVE INTENT
3 REGARDING THE PURPOSE OF REGIONAL HEALTH AUTHORITIES; TO CREATE
4 THE DELTA REGIONAL HEALTH AUTHORITY AND AUTHORIZE THE CREATION OF
5 ADDITIONAL REGIONAL HEALTH AUTHORITIES; TO PROVIDE FOR THE
6 APPOINTMENT OF THE GOVERNING BOARDS OF REGIONAL HEALTH
7 AUTHORITIES; TO PROVIDE FOR PARTICIPATION AGREEMENTS BETWEEN THE
8 REGIONAL HEALTH AUTHORITIES AND THE OWNERS OF COMMUNITY HOSPITALS
9 FOR THE HOSPITALS TO PARTICIPATE IN THE REGIONAL HEALTH AUTHORITY;
10 TO PROVIDE THAT PARTICIPATING COMMUNITY HOSPITALS WILL NO LONGER
11 BE GOVERNED BY THE COMMUNITY HOSPITAL LAWS BUT WILL BE GOVERNED BY
12 THE AUTHORITY BOARD; TO PROVIDE THAT THE AUTHORITY BOARD MAY
13 APPOINT A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY; TO SPECIFY THE
14 POWERS AND DUTIES OF THE CHIEF EXECUTIVE OFFICER; TO PROVIDE THAT
15 THE BOARD AUTHORITY SHALL HAVE ALL OF THE POWERS, AUTHORITY,
16 RIGHTS, PRIVILEGES AND IMMUNITIES CONFERRED ON THE OWNERS AND THE
17 BOARDS OF TRUSTEES OF COMMUNITY HOSPITALS; TO PRESCRIBE ADDITIONAL
18 POWERS AND DUTIES OF REGIONAL HEALTH AUTHORITIES; TO PROVIDE THAT
19 THE AUTHORITY SHALL BE DEEMED A "GOVERNMENTAL ENTITY" AND
20 "POLITICAL SUBDIVISION" FOR THE PURPOSE OF THE TORT CLAIMS ACT; TO
21 AUTHORIZE RURAL HEALTH AUTHORITIES TO PARTICIPATE IN THE PUBLIC
22 EMPLOYEES' RETIREMENT SYSTEM AS A POLITICAL SUBDIVISION; TO
23 PROVIDE THAT THE RURAL HEALTH AUTHORITIES SHALL BE TREATED AS A
24 NON-STATE GOVERNMENTAL HOSPITAL AND SHALL HAVE ALL RIGHTS,
25 PRIVILEGES AND ENTITLEMENTS OF A NON-STATE GOVERNMENTAL HOSPITAL
26 FOR PURPOSES OF THE MISSISSIPPI MEDICAID PROGRAM; TO DIRECT THE
27 DIVISION OF MEDICAID TO CREATE AND IMPLEMENT A SUPPLEMENTAL
28 PAYMENT PROGRAM TO SUPPORT THE ESSENTIAL SERVICES AND OPERATIONS
29 OF THE DELTA REGIONAL HEALTH AUTHORITY; TO PROVIDE THAT ANY
30 CONSOLIDATION OR COLLABORATION INVOLVING A REGIONAL HEALTH
31 AUTHORITY AND OTHER PUBLIC, PRIVATE OR NONPROFIT HOSPITALS, HEALTH
32 CARE FACILITIES OR PROVIDERS SHALL BE IMMUNE FROM LIABILITY UNDER
33 THE FEDERAL AND STATE ANTITRUST OR COMPETITION LAWS TO THE FULLEST
34 EXTENT ALLOWED BY LAW; TO AMEND SECTIONS 11-46-1, 41-7-173,



35 41-13-11, 41-13-15, 41-13-19, 41-13-35, 41-13-47 AND 41-13-101,
36 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
37 AND FOR RELATED PURPOSES.

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

39 **SECTION 1.** **Short title.** Sections 1 through 19 of this act
40 shall be known and may be cited as the "Mississippi Rural Regional
41 Health Authority Act of 2024."

42 **SECTION 2.** **Legislative intent and general purposes.** The
43 Legislature finds and declares as follows:

44 (a) The health care needs of the residents of
45 Mississippi can be served by regional health authorities having
46 the legal, financial and operational flexibility to take full
47 advantage of opportunities and challenges presented by the
48 evolving health care environment and to take whatever actions are
49 necessary to enable the authority's continuation as a system that
50 provides the finest possible quality of care consistent with
51 reasonable costs.

52 (b) In this environment, a regional health authority
53 must have the ability to respond to changing conditions by having
54 the power to develop efficient and cost-effective methods and
55 structures to provide for health care needs, while maintaining a
56 public mission and character. Accordingly, the Legislature finds
57 that there is a compelling interest in establishing a structure
58 and process for community hospitals to become part of and
59 participate in a regional health authority, in order to be able to
60 adapt to this dynamic environment, to operate efficiently, to
61 offer competitive health care services, to respond more



62 effectively to new developments and regulatory changes in the
63 health care area, and to continue to serve and promote the health,
64 wellness and welfare of the citizens of Mississippi. The general
65 purpose of this act is to achieve these objectives and promote the
66 public health and welfare of the residents of Mississippi by
67 allowing a community hospital to participate in a regional health
68 authority and to operate as provided in this act. The regional
69 health authority established under this act shall be a public and
70 governmental body, and a political subdivision of the state. The
71 operation of the regional health authority is declared to be for a
72 public and governmental purpose and a matter of public necessity.

73 (c) The geographic areas to be served by the regional
74 health authority include rural populations and other groups that
75 experience significant health disparities. Health disparities are
76 differences in health status when compared to the population
77 overall, often characterized by indicators such as higher
78 incidence of disease and/or disability, increased mortality rates,
79 and lower life expectancies. Rural risk factors for health
80 disparities include geographic isolation, lower socioeconomic
81 status, higher rates of health risk behaviors, and limited access
82 to health care specialists and subspecialists. As a result of
83 these health disparities, the residents of the area to be served
84 by the regional health authority have high rates of mortality and
85 morbidity, heart disease, cancer, and other illnesses. The region
86 also includes a high percentage of uninsured individuals and



87 Medicaid patients, which are medically underserved groups.
88 Community hospitals that currently serve this area have
89 demonstrated their ability to provide high quality health care and
90 to improve health conditions and outcomes as well as access to
91 care. The participation of community hospitals in a regional
92 health authority will significantly strengthen their ability to
93 serve the health care needs of the residents of the region.

94 (d) The regional health authority's investment of
95 significant public assets and its efforts to provide high quality
96 health care services to medically underserved populations are
97 jeopardized by the authority's potential limits on its ability to
98 collaborate and consolidate with other public and private health
99 care facilities and providers. The Legislature expressly finds
100 that the benefits of collaboration and consolidation by the
101 regional health authority outweigh any adverse impact on
102 competition. The benefits of the regional health authority's
103 efforts to collaborate and consolidate include, but are not
104 limited to, preserving and expanding needed health care services
105 in its service area; consolidating unneeded or duplicative health
106 care services; enhancing the quality of, and expanding access to,
107 health care delivered to medically underserved and rural
108 populations; and lowering costs and improving the efficiency of
109 the health care services it delivers. Based on the findings
110 contained in this section, the Legislature affirmatively expresses
111 a policy to allow the regional health authority to consolidate



112 with, or facilitate the consolidation among, other public,
113 private, for-profit and nonprofit hospitals, health care
114 facilities and providers, and to engage in collaborative
115 activities consistent with their health care purposes,
116 notwithstanding that those consolidations and collaborations may
117 have the effect of displacing competition in the provision of
118 hospital or other health care-related services. In engaging in
119 such consolidations and collaborations with other public, private,
120 for-profit or nonprofit hospitals, health care facilities and
121 providers, the regional health authority shall be considered to be
122 acting pursuant to clearly articulated state policy as established
123 in this section and shall not be subject to federal or state
124 antitrust laws while so acting. With respect to the
125 consolidations, collaborative activities and other activities
126 contemplated in this section, the regional health authority and
127 the public, private, for-profit and nonprofit entities with which
128 it consolidates, collaborates, or enters into any of the
129 transactions set forth in this act, shall be immune from liability
130 under the federal and state antitrust laws and those activities
131 are provided with state action immunity from federal and state
132 antitrust laws to the fullest extent possible.

133 (e) The goals and objectives of the regional health
134 authority include, but are not limited to:

135 (i) Maintaining essential health services;

136 (ii) Retaining an essential workforce;



137 (iii) Attaining financial sustainability;
138 (iv) Maximizing public reimbursement
139 opportunities;
140 (v) Enhancing outpatient health services;
141 (vi) Achieving economies of scale and skill; and
142 (vii) Identifying skilled and resourceful
143 affiliation partners.

144 (f) It is the intent of the Legislature that this act
145 be liberally construed so as to give effect to the intent,
146 purposes and findings described in this section.

147 **SECTION 3. Definitions.** As used in this act, the following
148 words and phrases have the meanings as defined in this section
149 unless the context clearly indicates otherwise:

150 (a) "Authority" or "regional health authority" means a
151 public body established in accordance with this act for the
152 purposes and with the powers set forth in this act, and includes,
153 but is not limited to, the Delta Regional Health Authority.

154 (b) "Authority board" means the governing board of a
155 regional health authority, including the organizational board of
156 the authority and/or the operational board of the authority.

157 (c) "Community hospital" has the meaning as defined in
158 Section 41-13-10(c).

159 (d) "Community hospital board" or "board of trustees"
160 means the board of trustees of a community hospital.



161 (e) "Health care facility" means and includes
162 hospitals, psychiatric hospitals, chemical dependency hospitals,
163 skilled nursing facilities, end-stage renal disease facilities,
164 ambulatory surgical facilities, home health agencies,
165 comprehensive medical rehabilitation facilities, and all other
166 facilities and programs established or operated for the provision
167 or offering of health care services and related services.

168 (f) "Mississippi Delta" means and includes the
169 following Mississippi counties: Bolivar, Carroll, Coahoma,
170 Grenada, Holmes, Humphreys, Leflore, Panola, Quitman, Sharkey,
171 Issaquena, Sunflower, Tallahatchie, Tate, Tunica, Warren,
172 Washington and Yazoo.

173 (g) "Owner" has the meaning as defined in
174 Section 41-13-10(d).

175 (h) "Participation agreement" means the
176 intergovernmental participation agreement between the authority
177 board and the owner of a community hospital participating in the
178 authority.

179 **SECTION 4. Establishment of regional health authorities.**

180 There is created the Delta Regional Health Authority, which shall
181 be established and operated as a regional health authority as set
182 forth in this act. The Legislature finds and declares that there
183 is a critical and immediate need for the establishment of a
184 regional health authority in the Mississippi Delta in order to
185 address the health care needs of that region. All provisions of



186 this act that refer or apply to a regional health authority shall
187 apply to the Delta Regional Health Authority. The Governor, after
188 consulting with the State Health Officer, may approve the
189 establishment of additional regional health authorities upon the
190 receipt of duly adopted resolutions from one or more owners of a
191 community hospital that set forth findings that it is in the best
192 interests of the community hospital, and the residents of the area
193 served by the community hospital, to participate in a regional
194 health authority. In evaluating the proposed establishment of a
195 regional health authority, or the proposal of additional community
196 hospitals to participate in a regional health authority, the
197 Governor may consider recommendations of the State Health Officer,
198 geographic proximity, service areas, health services offered or
199 any other relevant factors. The Governor may approve no more than
200 one (1) regional health authority in each congressional district
201 without further legislative approval.

202 **SECTION 5. Authority board.** (1) The organizational board
203 of the Delta Regional Health Authority shall consist of three (3)
204 members appointed by the Governor and two (2) members appointed by
205 the Lieutenant Governor, with the advice and consent of the
206 Senate. At least two (2) of the members appointed by the Governor
207 must be adult legal residents of the Mississippi Delta. At least
208 one (1) of the members appointed by the Lieutenant Governor must
209 be adult legal residents of the Mississippi Delta. All appointed
210 members must be adult legal residents of the State of Mississippi



211 and must have significant, demonstrated experience in business
212 management, fiscal affairs or public health.

213 (2) The organizational board of other regional health
214 authorities shall also consist of three (3) members appointed by
215 the Governor and two (2) members appointed by the Lieutenant
216 Governor, with the advice and consent of the Senate. At least two
217 (2) of the members appointed by the Governor must be adult legal
218 residents of the Mississippi Delta. At least one (1) of the
219 members appointed by the Lieutenant Governor must be adult legal
220 residents of one (1) of the counties comprising the geographic
221 service area designated by the Governor as being in the authority,
222 and the remaining members shall be at-large adult resident
223 citizens of Mississippi. All appointed members must be adult
224 legal residents of the State of Mississippi and must have
225 significant, demonstrated experience in business management,
226 fiscal affairs or public health.

227 (3) Appointments to the authority boards shall reflect the
228 racial and ethnic diversity of such region. The members of the
229 organizational board of each authority shall be responsible for
230 the formation, organization and implementation of the regional
231 health authority and shall serve until such time as one or more
232 community hospitals have entered into participation agreements as
233 provided for in Section 6 of this act.

234 (4) Once the authority has entered into its participation
235 agreement, the authority organizational board shall become an



236 operational board. The operational board shall consist of the
237 organizational board appointed by the Governor and Lieutenant
238 Governor and no more than six (6) additional members, as provided
239 in the participation agreement. A majority of the members of the
240 operational board of the Delta Regional Health Authority shall be
241 adult legal residents of the Mississippi Delta. The remaining
242 members shall be at-large adult legal residents of Mississippi. A
243 majority of the members of the operational boards of other
244 regional health authorities shall have as a majority adult legal
245 residents of the counties comprising the geographic service area
246 as designated by the Governor as being in the authority, and the
247 remaining members shall be at-large adult legal residents of
248 Mississippi. Future members of the board of the Delta Regional
249 Health Authority and other authority boards shall be appointed as
250 provided in the participation agreements.

251 (5) The members of the authority board set forth in the
252 participation agreement shall serve for staggered terms, and with
253 no member serving a term longer than four (4) years; however, any
254 member of the authority board may be reappointed to serve
255 additional terms. After the expiration of the initial staggered
256 terms, all succeeding terms shall be for four (4) years from the
257 expiration date of the previous term. Any vacancy on the
258 authority board shall be filled by the authority board within
259 ninety (90) days of the vacancy for the remainder of the unexpired
260 term.



261 (6) All members of the authority board shall serve without
262 pay except for their actual travel expenses and other necessary
263 expenses incurred in the performance of their official duties, to
264 be reimbursed as in the case of state employees under the
265 provisions of Section 25-3-41.

266 (7) All meetings of authority boards shall be subject to the
267 Open Meetings Act in Section 25-41-1 et seq. The chief executive
268 officer or a majority of members of an authority board may convene
269 the board for a meeting.

270 (8) Except as may be otherwise provided by law, all records
271 of the authority boards shall be deemed public records and subject
272 to public inspection as provided by Section 25-61-1 et seq.

273 **SECTION 6. Intergovernmental participation agreement.** (1)

274 The Delta Regional Health Authority and any future regional health
275 authority may enter into a participation agreement with the owner
276 of one or more community hospitals that will establish the key
277 elements of the relationships among the authority, the owner and
278 the board of trustees of a community hospital, including, but not
279 limited to:

280 (a) The powers and duties delegated to the board of
281 trustees of the community hospital by the authority board, which
282 shall include, but not be limited to, the responsibility for
283 medical staff credentialing and appointments, and oversight of the
284 quality of health care services provided by the community
285 hospital;



286 (b) The term of office of the members of the board of
287 trustees;

288 (c) The names and addresses of the initial members of
289 the board of trustees;

290 (d) The grounds for the removal or replacement of a
291 member of the board of trustees by the authority board;

292 (e) Governance of the authority and the community
293 hospital;

294 (f) Covenants for essential health services;

295 (g) Any lease or conveyance of real estate, equipment
296 and other assets;

297 (h) Any assumption of existing indebtedness or
298 contracts;

299 (i) Employee commitments, including continued
300 employment and benefit; and

301 (j) All other matters relating to the relationships
302 among the authority board, the owner and the board of trustees.

303 (2) The participation agreement will include, as parties,
304 the authority board, the governing board of the owner of the
305 community hospital participating in the authority, and the board
306 of trustees of the community hospital.

307 **SECTION 7. Participating community hospitals and boards of**
308 **trustees.** All community hospitals that become participants in the
309 regional health authority shall be governed by this act, and shall
310 no longer be governed by or subject to Sections 41-13-10 through



311 41-13-53 or Sections 41-13-101 through 41-13-107, except as
312 amended by or otherwise provided in this act. Additionally, all
313 community hospitals that become participants in the regional
314 health authority shall be governed by the authority board, and the
315 boards of trustees of the community hospital participants shall
316 have such powers as are expressly delegated to the community
317 hospital board by the authority board. The initial members of the
318 board of trustees of a community hospital participating in the
319 regional health authority shall consist of five (5) members, who
320 shall be designated in the participation agreement between the
321 authority and the owner of the community hospital. Following the
322 appointment of the initial members of the board of trustees, as
323 designated in the participation agreement, all subsequent members
324 of the board of trustees shall be appointed by the authority
325 board.

326 **SECTION 8. Community hospital licenses, permits, regulatory**
327 **rights and assets.** Each community hospital participating in a
328 regional health authority shall retain and maintain its existing
329 licenses, permits, Medicare and Medicaid provider numbers, tax
330 identification numbers and all other regulatory rights and
331 interests. The participation of a community hospital in a
332 regional health authority shall not constitute a "change of
333 ownership" under Section 41-7-171 et seq. (the Mississippi
334 Certificate of Need Law of 1979) or Section 43-13-101 et seq. (the



335 Mississippi Medicaid Law), or any implementing regulations under
336 those sections.

337 **SECTION 9. Appointment and powers of authority chief**

338 **executive officer.** (1) The authority board may appoint a chief
339 executive officer of the authority, who shall be an employee of
340 the authority and serve at the pleasure of the authority board.
341 The authority board may enter into a contract of employment with a
342 chief executive officer for a term not to exceed five (5) years,
343 but which may be renewed for an additional term or terms of five
344 (5) years each; however, the contract of employment may be
345 terminated by the authority board at any time, with or without
346 cause.

347 (2) Subject to any conflicting bylaws, resolutions, rules or
348 regulations adopted by the authority board, the chief executive
349 officer's duties and powers shall include, but not be limited to,
350 the following:

351 (a) To employ and discharge employees as needed for the
352 efficient performance of the business of the authority and to
353 prescribe their duties;

354 (b) To supervise and control the records, accounts,
355 buildings and property of the authority and all internal affairs,
356 and maintain discipline therein, and enforce compliance with and
357 obedience to all rules, bylaws and regulations adopted by the
358 authority board for the government, discipline and management of
359 the authority and its employees and staff;



360 (c) To attend meetings of the authority board and to
361 keep its members advised of authority business;

362 (d) To appoint the administrators of the community
363 hospitals participating in the authority; and

364 (e) To exercise any of the powers of the authority
365 board that have been delegated, by resolution or through authority
366 board bylaws, to the chief executive officer.

367 **SECTION 10. Certain powers and authority of owners and**
368 **boards of trustees of community hospitals granted to board of**
369 **regional health authority.** The board of the regional health
370 authority shall have and assume the powers, authority, rights,
371 privileges and immunities conferred on the owners and the boards
372 of trustees of community hospitals, respectively, as set forth in
373 Sections 41-13-10 through 41-13-53 and Sections 41-13-101 through
374 41-13-107, except as amended by or otherwise provided in this act,
375 and also except as follows:

376 (a) Any contract for the purchase of real property by
377 the authority board shall not require ratification or approval by
378 any owner;

379 (b) The borrowing authority of the authority board
380 shall not be subject to any limitation, restriction or prior
381 approval by any owner; and

382 (c) The authority board shall not be required to submit
383 to any owner a proposed budget for the ensuing fiscal year, as set



384 forth in Section 41-13-47, and the authority board shall not be
385 required to obtain the approval of any budget by any owner; and

386 (d) The authority board shall not be required to file
387 with any owner a full fiscal year report, as set forth in Section
388 41-13-47.

389 **SECTION 11. Additional powers of authority board.** In
390 addition to the powers otherwise granted by this act or any other
391 act or law of this state, or by any state regulation or federal
392 law or regulation, and to the extent at the time not prohibited by
393 the Constitution of Mississippi, in order to achieve the important
394 health care purposes of this act, the authority board shall have,
395 together with all powers incidental thereto or necessary to
396 discharge the powers granted specifically in this act, the
397 following powers and authority:

398 (a) To develop a strategic plan for the authority and
399 the community hospitals participating in the authority;

400 (b) To determine the addition or discontinuation of any
401 and all health care services and programs offered by community
402 hospitals participating in the authority;

403 (c) To request or apply for, receive and expend any
404 federal or state appropriations, grants, Medicaid program
405 payments, or other payments or money of any amount or nature;

406 (d) To sue and be sued in its own name in civil suits
407 and actions, and to defend suits and actions against it, subject,



408 however, to Sections 11-46-1 through 11-46-23, which are made
409 applicable to the authority;

410 (e) To adopt, alter, amend and repeal bylaws, rules and
411 regulations, not inconsistent with the provisions of this act, for
412 the regulation and conduct of its affairs and business;

413 (f) To acquire, construct, reconstruct, equip, enlarge,
414 expand, alter, repair, improve, maintain, equip, furnish and
415 operate health care facilities at such place or places, within and
416 without the state, as it considers necessary or advisable;

417 (g) To lease or otherwise make available any health
418 care facilities or other of its properties and assets to such
419 persons, firms, partnerships, associations or corporations and on
420 such terms as the authority board deems to be appropriate, to
421 charge and collect rent or other fees or charges therefor and to
422 terminate any such lease or other agreement upon the failure of
423 the lessee or other party thereto to comply with any of its
424 obligations under the lease or agreement;

425 (h) To receive, acquire, take and hold (whether by
426 purchase, gift, transfer, foreclosure, lease, devise, option or
427 otherwise) real and personal property of every description, or any
428 interest therein, and to manage, improve and dispose of the same
429 by any form of legal conveyance or transfer;

430 (i) To mortgage, pledge or otherwise convey its
431 property and its revenues from any source;



432 (j) To borrow money in order to provide funds for any
433 lawful authority function, use or purpose and, in evidence of such
434 borrowing, to sell and issue interest-bearing securities in the
435 manner provided and subject to the limitations set forth
436 hereinafter;

437 (k) To pledge for payment of any of its securities any
438 revenues (including proceeds from any hospital tax to which it may
439 be entitled) and to mortgage or pledge any or all of its health
440 care facilities or other assets or properties or any part or parts
441 thereof, whether then owned or thereafter acquired, as security
442 for the payment of the principal of and the interest and premium,
443 if any, on any securities so issued and any agreements made in
444 connection with such securities;

445 (l) To provide instruction and training for, and to
446 contract for the instruction and training of, nurses, technicians
447 and other technical, professional and paramedical personnel;

448 (m) To affiliate with, and to contract to provide
449 training and clinical experience for students of, other
450 institutions;

451 (n) To contract for the operation of any department,
452 section, equipment or holdings of the authority, and to enter into
453 agreements with any person, firm or corporation for the management
454 by that person, firm or corporation on behalf of the authority of
455 any of its properties or for the more efficient or economical



456 performance of clerical, accounting, administrative and other
457 functions relating to its health care facilities;

458 (o) To establish, collect and alter charges for
459 services rendered and supplies furnished by it;

460 (p) To make all needful or appropriate rules and
461 regulations for the conduct of any health care facilities and
462 other properties owned or operated by it and to alter such rules
463 and regulations;

464 (q) To provide for such insurance as the business of
465 the authority may require;

466 (r) To receive and accept from any source, any type of
467 aid or contributions in the form of money, property, labor or
468 other things of value, to be held, used and applied to carry out
469 the purposes of this act, subject to any lawful condition upon
470 which any such aid or contributions may be given or made;

471 (s) To cooperate with the State Board of Health and the
472 State Department of Health and to make contracts with either of
473 those agencies respecting the operation of any health care
474 facilities or other properties owned or operated by it, whether as
475 an agent for either or both of those agencies or otherwise;

476 (t) To enter into contracts with, to accept aid, loans
477 and grants from, to cooperate with and to do any and all things
478 not specifically prohibited by this act or the Constitution of
479 Mississippi that may be necessary in order to avail itself of the
480 aid and cooperation of the United States of America, the state,



481 any county or municipality, or any agency, instrumentality or
482 political subdivision of any of the foregoing in furtherance of
483 the purposes of this article; to give such assurances, contractual
484 or otherwise, to or for the benefit of any of the foregoing as may
485 be required in connection with, or as conditions precedent to the
486 receipt of, any such aid, loan or grant; and to take such action
487 not in violation of law as may be necessary in order to qualify
488 the authority to receive funds appropriated by any of the
489 foregoing;

490 (u) To give such assurances, contractual or otherwise,
491 and to make such commitments and agreements as may be necessary or
492 desirable to preclude the exercise of any rights of recovery with
493 respect to, or the forfeiture of title to, any of its health care
494 facilities or other property or any health care facilities or
495 other property proposed to be acquired by it;

496 (v) To make and alter rules and regulations for the
497 treatment of indigent patients;

498 (w) To assume any obligations of any entity that
499 conveys and transfers to the authority any health care facilities
500 or other property, or interest therein, provided that such
501 obligations appertain to the health care facilities, property or
502 interest so conveyed and transferred to the authority;

503 (x) To assume, establish, fund and maintain retirement,
504 pension or other employee benefit plans for its employees;



505 (y) To appoint, employ, contract with, and provide for
506 the compensation of, such employees and agents, including, but not
507 limited to, architects, attorneys, consultants, engineers,
508 accountants, financial experts, fiscal agents and such other
509 advisers, consultants and agents as the business of the authority
510 may require;

511 (z) To enter into affiliation, cooperation,
512 territorial, management or other similar agreements with other
513 institutions (public or private) for the sharing, division,
514 allocation or exclusive furnishing of services, referral of
515 patients, management of facilities and other similar activities;

516 (aa) To exercise all powers granted under this section
517 in such a manner as the regional health authority, through the
518 authority board, may determine to be consistent with the purposes
519 of this act, including the state action immunity provided by
520 Section 2 of this act from state and federal antitrust laws to the
521 fullest extent possible, notwithstanding that as a consequence of
522 such exercise of such powers it engages in activities that may be
523 deemed "anticompetitive" or which displace competition within the
524 meaning or contemplation of the antitrust laws of this state or of
525 the United States; and

526 (bb) To enter into such contracts, agreements, leases
527 and other instruments, and to take such other actions, as may be
528 necessary or convenient to accomplish any purpose for which the



529 authority was organized or to exercise any power expressly granted
530 hereunder.

531 **SECTION 12. Liability and insurance.** The authority board is
532 authorized, in its discretion, to obtain and pay for, out of
533 operating funds of the authority, liability insurance as described
534 in Section 41-13-11.

535 **SECTION 13. Immunity of authority from liability and suit.**
536 The authority shall be deemed a "governmental entity" and
537 "political subdivision" as defined in Section 11-46-1, and as
538 such, shall be entitled to all of the rights, privileges, benefits
539 and immunities set forth in Sections 11-46-1 through 11-46-23, and
540 shall be subject to all terms and provisions of those sections.

541 **SECTION 14. Issuance of bonds.** The authority is authorized
542 and empowered to make appropriations of funds and to issue and
543 sell bonds, notes or other evidences of indebtedness thereof, for
544 the benefit of the authority, in the same manner as, and subject
545 to all duties, obligations and provisions set forth in Sections
546 41-13-19, 41-13-21, 41-13-23, 41-13-24, and 41-13-25.

547 **SECTION 15. Trust to insure against public liability claims.**
548 The authority is authorized to establish, maintain, administer and
549 operate any trust as described in Section 41-13-101 and, in such
550 event, shall be subject to the terms, provisions and requirements
551 of Sections 41-13-101 through 41-13-107.

552 **SECTION 16. Retirement and disability benefits.** The
553 authority established under this act is authorized to participate



554 in the Public Employees' Retirement System as a political
555 subdivision under the provisions of Section 25-11-105(f).

556 **SECTION 17. Lease or sale of community hospitals.** The
557 authority established under this act shall not be subject to the
558 provisions of Sections 41-13-15(7) through 41-13-15(11).

559 **SECTION 18. Medicaid.** The authority established under this
560 act shall be treated as a non-state governmental hospital, and
561 shall have all rights, privileges and entitlements of a non-state
562 governmental hospital for purposes of the Mississippi Medicaid
563 program and its implementing statutes and regulations. The
564 Division of Medicaid is authorized and directed to create and
565 implement a supplemental payment program to support the essential
566 services and operations of the Delta Regional Health Authority
567 created by this act.

568 **SECTION 19. Implied powers.** In addition to all of the other
569 powers conferred upon it in this act, the regional health
570 authority may do all things necessary and convenient to carry out
571 the powers expressly given in this act not inconsistent with the
572 provisions of any other law, except as otherwise provided in this
573 act.

574 **SECTION 20.** Section 11-46-1, Mississippi Code of 1972, is
575 amended as follows:

576 11-46-1. As used in this chapter, the following terms shall
577 have the meanings ascribed unless the context otherwise requires:



578 (a) "Claim" means any demand to recover damages from a
579 governmental entity as compensation for injuries.

580 (b) "Claimant" means any person seeking compensation
581 under the provisions of this chapter, whether by administrative
582 remedy or through the courts.

583 (c) "Board" means the Mississippi Tort Claims Board.

584 (d) "Department" means the Department of Finance and
585 Administration.

586 (e) "Director" means the executive director of the
587 department who is also the executive director of the board.

588 (f) "Employee" means any officer, employee or servant
589 of the State of Mississippi or a political subdivision of the
590 state, including elected or appointed officials and persons acting
591 on behalf of the state or a political subdivision in any official
592 capacity, temporarily or permanently, in the service of the state
593 or a political subdivision whether with or without compensation,
594 including firefighters who are members of a volunteer fire
595 department that is a political subdivision. The term "employee"
596 shall not mean a person or other legal entity while acting in the
597 capacity of an independent contractor under contract to the state
598 or a political subdivision; and

599 (i) For purposes of the limits of liability
600 provided for in Section 11-46-15, the term "employee" shall
601 include:



602 1. Physicians under contract to provide
603 health services with the State Board of Health, the State Board of
604 Mental Health or any county or municipal jail facility while
605 rendering services under the contract;

606 2. Any physician, dentist or other health
607 care practitioner employed by the University of Mississippi
608 Medical Center (UMMC) and its departmental practice plans who is a
609 faculty member and provides health care services only for patients
610 at UMMC or its affiliated practice sites, including any physician
611 or other health care practitioner employed by UMMC under an
612 arrangement with a public or private health-related organization;

613 3. Any physician, dentist or other health
614 care practitioner employed by any university under the control of
615 the Board of Trustees of State Institutions of Higher Learning who
616 practices only on the campus of any university under the control
617 of the Board of Trustees of State Institutions of Higher Learning;

618 4. Any physician, dentist or other health
619 care practitioner employed by the State Veterans Affairs Board and
620 who provides health care services for patients for the State
621 Veterans Affairs Board;

622 (ii) The term "employee" shall also include
623 Mississippi Department of Child Protection Services licensed
624 foster parents for the limited purposes of coverage under the Tort
625 Claims Act as provided in Section 11-46-8; and



626 (iii) The term "employee" also shall include any
627 employee or member of the governing board of a charter school but
628 shall not include any person or entity acting in the capacity of
629 an independent contractor to provide goods or services under a
630 contract with a charter school.

631 (g) "Governmental entity" means the state and political
632 subdivisions.

633 (h) "Injury" means death, injury to a person, damage to
634 or loss of property or any other injury that a person may suffer
635 that is actionable at law or in equity.

636 (i) "Political subdivision" means any body politic or
637 body corporate other than the state responsible for governmental
638 activities only in geographic areas smaller than that of the
639 state, including, but not limited to, any county, municipality,
640 school district, charter school, volunteer fire department that is
641 a chartered nonprofit corporation providing emergency services
642 under contract with a county or municipality, community hospital
643 as defined in Section 41-13-10, regional health authority as
644 defined in Section 3 of this act, airport authority, or other
645 instrumentality of the state, whether or not the body or
646 instrumentality has the authority to levy taxes or to sue or be
647 sued in its own name.

648 (j) "State" means the State of Mississippi and any
649 office, department, agency, division, bureau, commission, board,
650 institution, hospital, college, university, airport authority or



651 other instrumentality thereof, whether or not the body or
652 instrumentality has the authority to levy taxes or to sue or be
653 sued in its own name.

654 (k) "Law" means all species of law, including, but not
655 limited to, any and all constitutions, statutes, case law, common
656 law, customary law, court order, court rule, court decision, court
657 opinion, court judgment or mandate, administrative rule or
658 regulation, executive order, or principle or rule of equity.

659 **SECTION 21.** Section 41-7-173, Mississippi Code of 1972, is
660 amended as follows:

661 41-7-173. For the purposes of Section 41-7-171 et seq., the
662 following words shall have the meanings ascribed herein, unless
663 the context otherwise requires:

664 (a) "Affected person" means (i) the applicant; (ii) a
665 person residing within the geographic area to be served by the
666 applicant's proposal; (iii) a person who regularly uses health
667 care facilities or HMOs located in the geographic area of the
668 proposal which provide similar service to that which is proposed;
669 (iv) health care facilities and HMOs which have, prior to receipt
670 of the application under review, formally indicated an intention
671 to provide service similar to that of the proposal being
672 considered at a future date; (v) third-party payers who reimburse
673 health care facilities located in the geographical area of the
674 proposal; or (vi) any agency that establishes rates for health



675 care services or HMOs located in the geographic area of the
676 proposal.

677 (b) "Certificate of need" means a written order of the
678 State Department of Health setting forth the affirmative finding
679 that a proposal in prescribed application form, sufficiently
680 satisfies the plans, standards and criteria prescribed for such
681 service or other project by Section 41-7-171 et seq., and by rules
682 and regulations promulgated thereunder by the State Department of
683 Health.

684 (c) (i) "Capital expenditure," when pertaining to
685 defined major medical equipment, shall mean an expenditure which,
686 under generally accepted accounting principles consistently
687 applied, is not properly chargeable as an expense of operation and
688 maintenance and which exceeds One Million Five Hundred Thousand
689 Dollars (\$1,500,000.00).

690 (ii) "Capital expenditure," when pertaining to
691 other than major medical equipment, shall mean any expenditure
692 which under generally accepted accounting principles consistently
693 applied is not properly chargeable as an expense of operation and
694 maintenance and which exceeds, for clinical health services, as
695 defined in * * * paragraph (k) below, Five Million Dollars
696 (\$5,000,000.00), adjusted for inflation as published by the State
697 Department of Health or which exceeds, for nonclinical health
698 services, as defined in * * * paragraph (k) below, Ten Million



699 Dollars (\$10,000,000.00), adjusted for inflation as published by
700 the State Department of Health.

701 (iii) A "capital expenditure" shall include the
702 acquisition, whether by lease, sufferance, gift, devise, legacy,
703 settlement of a trust or other means, of any facility or part
704 thereof, or equipment for a facility, the expenditure for which
705 would have been considered a capital expenditure if acquired by
706 purchase. Transactions which are separated in time but are
707 planned to be undertaken within twelve (12) months of each other
708 and are components of an overall plan for meeting patient care
709 objectives shall, for purposes of this definition, be viewed in
710 their entirety without regard to their timing.

711 (iv) In those instances where a health care
712 facility or other provider of health services proposes to provide
713 a service in which the capital expenditure for major medical
714 equipment or other than major medical equipment or a combination
715 of the two (2) may have been split between separate parties, the
716 total capital expenditure required to provide the proposed service
717 shall be considered in determining the necessity of certificate of
718 need review and in determining the appropriate certificate of need
719 review fee to be paid. The capital expenditure associated with
720 facilities and equipment to provide services in Mississippi shall
721 be considered regardless of where the capital expenditure was
722 made, in state or out of state, and regardless of the domicile of



723 the party making the capital expenditure, in state or out of
724 state.

725 (d) "Change of ownership" includes, but is not limited
726 to, inter vivos gifts, purchases, transfers, lease arrangements,
727 cash and/or stock transactions or other comparable arrangements
728 whenever any person or entity acquires or controls a majority
729 interest of an existing health care facility, and/or the change of
730 ownership of major medical equipment, a health service, or an
731 institutional health service. Changes of ownership from
732 partnerships, single proprietorships or corporations to another
733 form of ownership are specifically included. However, "change of
734 ownership" shall not include any inherited interest acquired as a
735 result of a testamentary instrument or under the laws of descent
736 and distribution of the State of Mississippi; and shall not
737 include the participation of a community hospital in a regional
738 health authority as provided in Sections 1 through 19 of this act.

739 (e) "Commencement of construction" means that all of
740 the following have been completed with respect to a proposal or
741 project proposing construction, renovating, remodeling or
742 alteration:

743 (i) A legally binding written contract has been
744 consummated by the proponent and a lawfully licensed contractor to
745 construct and/or complete the intent of the proposal within a
746 specified period of time in accordance with final architectural



747 plans which have been approved by the licensing authority of the
748 State Department of Health;

749 (ii) Any and all permits and/or approvals deemed
750 lawfully necessary by all authorities with responsibility for such
751 have been secured; and

752 (iii) Actual bona fide undertaking of the subject
753 proposal has commenced, and a progress payment of at least one
754 percent (1%) of the total cost price of the contract has been paid
755 to the contractor by the proponent, and the requirements of this
756 paragraph (e) have been certified to in writing by the State
757 Department of Health.

758 Force account expenditures, such as deposits, securities,
759 bonds, et cetera, may, in the discretion of the State Department
760 of Health, be excluded from any or all of the provisions of
761 defined commencement of construction.

762 (f) "Consumer" means an individual who is not a
763 provider of health care as defined in paragraph (q) of this
764 section.

765 (g) "Develop," when used in connection with health
766 services, means to undertake those activities which, on their
767 completion, will result in the offering of a new institutional
768 health service or the incurring of a financial obligation as
769 defined under applicable state law in relation to the offering of
770 such services.



771 (h) "Health care facility" includes hospitals,
772 psychiatric hospitals, chemical dependency hospitals, skilled
773 nursing facilities, end-stage renal disease (ESRD) facilities,
774 including freestanding hemodialysis units, intermediate care
775 facilities, ambulatory surgical facilities, intermediate care
776 facilities for the mentally retarded, home health agencies,
777 psychiatric residential treatment facilities, pediatric skilled
778 nursing facilities, long-term care hospitals, comprehensive
779 medical rehabilitation facilities, including facilities owned or
780 operated by the state or a political subdivision or
781 instrumentality of the state, but does not include Christian
782 Science sanatoriums operated or listed and certified by the First
783 Church of Christ, Scientist, Boston, Massachusetts. This
784 definition shall not apply to facilities for the private practice,
785 either independently or by incorporated medical groups, of
786 physicians, dentists or health care professionals except where
787 such facilities are an integral part of an institutional health
788 service. The various health care facilities listed in this
789 paragraph shall be defined as follows:

790 (i) "Hospital" means an institution which is
791 primarily engaged in providing to inpatients, by or under the
792 supervision of physicians, diagnostic services and therapeutic
793 services for medical diagnosis, treatment and care of injured,
794 disabled or sick persons, or rehabilitation services for the



795 rehabilitation of injured, disabled or sick persons. Such term
796 does not include psychiatric hospitals.

797 (ii) "Psychiatric hospital" means an institution
798 which is primarily engaged in providing to inpatients, by or under
799 the supervision of a physician, psychiatric services for the
800 diagnosis and treatment of persons with mental illness.

801 (iii) "Chemical dependency hospital" means an
802 institution which is primarily engaged in providing to inpatients,
803 by or under the supervision of a physician, medical and related
804 services for the diagnosis and treatment of chemical dependency
805 such as alcohol and drug abuse.

806 (iv) "Skilled nursing facility" means an
807 institution or a distinct part of an institution which is
808 primarily engaged in providing to inpatients skilled nursing care
809 and related services for patients who require medical or nursing
810 care or rehabilitation services for the rehabilitation of injured,
811 disabled or sick persons.

812 (v) "End-stage renal disease (ESRD) facilities"
813 means kidney disease treatment centers, which includes
814 freestanding hemodialysis units and limited care facilities. The
815 term "limited care facility" generally refers to an
816 off-hospital-premises facility, regardless of whether it is
817 provider or nonprovider operated, which is engaged primarily in
818 furnishing maintenance hemodialysis services to stabilized
819 patients.



820 (vi) "Intermediate care facility" means an
821 institution which provides, on a regular basis, health-related
822 care and services to individuals who do not require the degree of
823 care and treatment which a hospital or skilled nursing facility is
824 designed to provide, but who, because of their mental or physical
825 condition, require health-related care and services (above the
826 level of room and board).

827 (vii) "Ambulatory surgical facility" means a
828 facility primarily organized or established for the purpose of
829 performing surgery for outpatients and is a separate identifiable
830 legal entity from any other health care facility. Such term does
831 not include the offices of private physicians or dentists, whether
832 for individual or group practice, and does not include any
833 abortion facility as defined in Section 41-75-1(f).

834 (viii) "Intermediate care facility for the
835 mentally retarded" means an intermediate care facility that
836 provides health or rehabilitative services in a planned program of
837 activities to persons with an intellectual disability, also
838 including, but not limited to, cerebral palsy and other conditions
839 covered by the Federal Developmentally Disabled Assistance and
840 Bill of Rights Act, Public Law 94-103.

841 (ix) "Home health agency" means a public or
842 privately owned agency or organization, or a subdivision of such
843 an agency or organization, properly authorized to conduct business
844 in Mississippi, which is primarily engaged in providing to



845 individuals at the written direction of a licensed physician, in
846 the individual's place of residence, skilled nursing services
847 provided by or under the supervision of a registered nurse
848 licensed to practice in Mississippi, and one or more of the
849 following services or items:

- 850 1. Physical, occupational or speech therapy;
- 851 2. Medical social services;
- 852 3. Part-time or intermittent services of a
853 home health aide;
- 854 4. Other services as approved by the
855 licensing agency for home health agencies;
- 856 5. Medical supplies, other than drugs and
857 biologicals, and the use of medical appliances; or
- 858 6. Medical services provided by an intern or
859 resident-in-training at a hospital under a teaching program of
860 such hospital.

861 Further, all skilled nursing services and those services
862 listed in items 1 through 4 of this subparagraph (ix) must be
863 provided directly by the licensed home health agency. For
864 purposes of this subparagraph, "directly" means either through an
865 agency employee or by an arrangement with another individual not
866 defined as a health care facility.

867 This subparagraph (ix) shall not apply to health care
868 facilities which had contracts for the above services with a home
869 health agency on January 1, 1990.



870 (x) "Psychiatric residential treatment facility"
871 means any nonhospital establishment with permanent licensed
872 facilities which provides a twenty-four-hour program of care by
873 qualified therapists, including, but not limited to, duly licensed
874 mental health professionals, psychiatrists, psychologists,
875 psychotherapists and licensed certified social workers, for
876 emotionally disturbed children and adolescents referred to such
877 facility by a court, local school district or by the Department of
878 Human Services, who are not in an acute phase of illness requiring
879 the services of a psychiatric hospital, and are in need of such
880 restorative treatment services. For purposes of this
881 subparagraph, the term "emotionally disturbed" means a condition
882 exhibiting one or more of the following characteristics over a
883 long period of time and to a marked degree, which adversely
884 affects educational performance:

- 885 1. An inability to learn which cannot be
886 explained by intellectual, sensory or health factors;
- 887 2. An inability to build or maintain
888 satisfactory relationships with peers and teachers;
- 889 3. Inappropriate types of behavior or
890 feelings under normal circumstances;
- 891 4. A general pervasive mood of unhappiness or
892 depression; or
- 893 5. A tendency to develop physical symptoms or
894 fears associated with personal or school problems. An



895 establishment furnishing primarily domiciliary care is not within
896 this definition.

897 (xi) "Pediatric skilled nursing facility" means an
898 institution or a distinct part of an institution that is primarily
899 engaged in providing to inpatients skilled nursing care and
900 related services for persons under twenty-one (21) years of age
901 who require medical or nursing care or rehabilitation services for
902 the rehabilitation of injured, disabled or sick persons.

903 (xii) "Long-term care hospital" means a
904 freestanding, Medicare-certified hospital that has an average
905 length of inpatient stay greater than twenty-five (25) days, which
906 is primarily engaged in providing chronic or long-term medical
907 care to patients who do not require more than three (3) hours of
908 rehabilitation or comprehensive rehabilitation per day, and has a
909 transfer agreement with an acute care medical center and a
910 comprehensive medical rehabilitation facility. Long-term care
911 hospitals shall not use rehabilitation, comprehensive medical
912 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
913 nursing home, skilled nursing facility or sub-acute care facility
914 in association with its name.

915 (xiii) "Comprehensive medical rehabilitation
916 facility" means a hospital or hospital unit that is licensed
917 and/or certified as a comprehensive medical rehabilitation
918 facility which provides specialized programs that are accredited
919 by the Commission on Accreditation of Rehabilitation Facilities



920 and supervised by a physician board certified or board eligible in
921 physiatry or other doctor of medicine or osteopathy with at least
922 two (2) years of training in the medical direction of a
923 comprehensive rehabilitation program that:

924 1. Includes evaluation and treatment of
925 individuals with physical disabilities;

926 2. Emphasizes education and training of
927 individuals with disabilities;

928 3. Incorporates at least the following core
929 disciplines:

930 * * *a. Physical Therapy;

931 * * *b. Occupational Therapy;

932 * * *c. Speech and Language Therapy;

933 * * *d. Rehabilitation Nursing; and

934 4. Incorporates at least three (3) of the
935 following disciplines:

936 * * *a. Psychology;

937 * * *b. Audiology;

938 * * *c. Respiratory Therapy;

939 * * *d. Therapeutic Recreation;

940 * * *e. Orthotics;

941 * * *f. Prosthetics;

942 * * *g. Special Education;

943 * * *h. Vocational Rehabilitation;

944 * * *i. Psychotherapy;



945 * * *j. Social Work;

946 * * *k. Rehabilitation Engineering.

947 These specialized programs include, but are not limited to:
948 spinal cord injury programs, head injury programs and infant and
949 early childhood development programs.

950 (i) "Health maintenance organization" or "HMO" means a
951 public or private organization organized under the laws of this
952 state or the federal government which:

953 (i) Provides or otherwise makes available to
954 enrolled participants health care services, including
955 substantially the following basic health care services: usual
956 physician services, hospitalization, laboratory, x-ray, emergency
957 and preventive services, and out-of-area coverage;

958 (ii) Is compensated (except for copayments) for
959 the provision of the basic health care services listed in
960 subparagraph (i) of this paragraph to enrolled participants on a
961 predetermined basis; and

962 (iii) Provides physician services primarily:

963 1. Directly through physicians who are either
964 employees or partners of such organization; or

965 2. Through arrangements with individual
966 physicians or one or more groups of physicians (organized on a
967 group practice or individual practice basis).

968 (j) "Health service area" means a geographic area of
969 the state designated in the State Health Plan as the area to be



970 used in planning for specified health facilities and services and
971 to be used when considering certificate of need applications to
972 provide health facilities and services.

973 (k) "Health services" means clinically related (i.e.,
974 diagnostic, treatment or rehabilitative) services and includes
975 alcohol, drug abuse, mental health and home health care services.
976 "Clinical health services" shall only include those activities
977 which contemplate any change in the existing bed complement of any
978 health care facility through the addition or conversion of any
979 beds, under Section 41-7-191(1)(c) or propose to offer any health
980 services if those services have not been provided on a regular
981 basis by the proposed provider of such services within the period
982 of twelve (12) months prior to the time such services would be
983 offered, under Section 41-7-191(1)(d). "Nonclinical health
984 services" shall be all other services which do not involve any
985 change in the existing bed complement or offering health services
986 as described above.

987 (l) "Institutional health services" shall mean health
988 services provided in or through health care facilities and shall
989 include the entities in or through which such services are
990 provided.

991 (m) "Major medical equipment" means medical equipment
992 designed for providing medical or any health-related service which
993 costs in excess of One Million Five Hundred Thousand Dollars
994 (\$1,500,000.00). However, this definition shall not be applicable



995 to clinical laboratories if they are determined by the State
996 Department of Health to be independent of any physician's office,
997 hospital or other health care facility or otherwise not so defined
998 by federal or state law, or rules and regulations promulgated
999 thereunder.

1000 (n) "State Department of Health" or "department" shall
1001 mean the state agency created under Section 41-3-15, which shall
1002 be considered to be the State Health Planning and Development
1003 Agency, as defined in paragraph (u) of this section.

1004 (o) "Offer," when used in connection with health
1005 services, means that it has been determined by the State
1006 Department of Health that the health care facility is capable of
1007 providing specified health services.

1008 (p) "Person" means an individual, a trust or estate,
1009 partnership, corporation (including associations, joint-stock
1010 companies and insurance companies), the state or a political
1011 subdivision or instrumentality of the state.

1012 (q) "Provider" shall mean any person who is a provider
1013 or representative of a provider of health care services requiring
1014 a certificate of need under Section 41-7-171 et seq., or who has
1015 any financial or indirect interest in any provider of services.

1016 (r) "Radiation therapy services" means the treatment of
1017 cancer and other diseases using ionizing radiation of either high
1018 energy photons (x-rays or gamma rays) or charged particles
1019 (electrons, protons or heavy nuclei). However, for purposes of a



1020 certificate of need, radiation therapy services shall not include
1021 low energy, superficial, external beam x-ray treatment of
1022 superficial skin lesions.

1023 (s) "Secretary" means the Secretary of Health and Human
1024 Services, and any officer or employee of the Department of Health
1025 and Human Services to whom the authority involved has been
1026 delegated.

1027 (t) "State Health Plan" means the sole and official
1028 statewide health plan for Mississippi which identifies priority
1029 state health needs and establishes standards and criteria for
1030 health-related activities which require certificate of need review
1031 in compliance with Section 41-7-191.

1032 (u) "State Health Planning and Development Agency"
1033 means the agency of state government designated to perform health
1034 planning and resource development programs for the State of
1035 Mississippi.

1036 **SECTION 22.** Section 41-13-11, Mississippi Code of 1972, is
1037 amended as follows:

1038 41-13-11. (1) * * * The board of trustees of any community
1039 hospital is * * * authorized, in its discretion, to obtain and pay
1040 for, out of operating funds of the community hospital, liability
1041 insurance of such kinds as * * * the board of trustees deems
1042 advisable covering the operation of * * * the community hospital,
1043 including trustees, employees and volunteers, and every department
1044 thereof, and all machinery, equipment, appliances and motor



1045 vehicles thereof or used in connection therewith so as to cover
1046 damages or injury to persons or property or both caused by the
1047 negligence of any member of * * * the board of trustees or of any
1048 officer, director, agent, servant, attorney, employee or volunteer
1049 of such hospital while engaged in the performance of his duties or
1050 working in connection with the operation of * * * the community
1051 hospital. Such insurance shall either be procured from a company
1052 or companies authorized to do business and doing business in the
1053 State of Mississippi or provided through a program of self
1054 insurance established pursuant to the provisions of Section
1055 11-46-17 * * *. Such insurance shall be for such amounts of
1056 coverage and shall cover such trustees, employees, volunteers,
1057 departments, installations, equipment, facilities and activities
1058 as the board of trustees, in its discretion, shall determine. The
1059 board of trustees may likewise indemnify, either by the purchase
1060 of insurance or, directly, where funds are available, in whole or
1061 in part, any trustee, officer, director, agent, volunteer or
1062 employee of * * * the facility or program for actual personal
1063 expenses incurred in the defense of any suit, or judgments
1064 resulting from * * * the suit, brought against * * * the trustee,
1065 officer, director, agent, volunteer or employee for alleged
1066 negligent or wrongful conduct committed while under the employment
1067 of or while providing service to a community hospital.

1068 (* * *2) Notwithstanding the authority to purchase or
1069 provide liability insurance as provided for in subsection



1070 (* * *1) of this section, any community hospital, owner or board
1071 of trustees shall be subject to and shall be governed by the
1072 provisions of Section 11-46-1 et seq. * * * for any cause of
1073 action which accrues from and after October 1, 1993, on account of
1074 any wrongful or tortious act or omission of any such governmental
1075 entity, as defined in Section 11-46-1, * * * or its employees
1076 relating to or in connection with any activity or operation of any
1077 community hospital.

1078 (3) The board of a regional health authority under Sections
1079 1 through 19 of this act is authorized, in its discretion, to
1080 obtain and pay for, out of operating funds of the authority,
1081 liability insurance as described in this section.

1082 **SECTION 23.** Section 41-13-15, Mississippi Code of 1972, is
1083 amended as follows:

1084 41-13-15. (1) Any county and/or any political or judicial
1085 subdivision of a county and/or any municipality of the State of
1086 Mississippi, acting individually or jointly, may acquire and hold
1087 real estate for a community hospital either recognized and/or
1088 licensed as such by either the State of Mississippi or the United
1089 States Government, and may, after complying with applicable health
1090 planning and licensure statutes, construct a community hospital
1091 thereon and/or appropriate funds according to the provisions of
1092 this chapter for the construction, remodeling, maintaining,
1093 equipping, furnishing and expansion of such facilities by the
1094 board of trustees upon such real estate.



1095 (2) Where joint ownership of a community hospital is
1096 involved, the owners are * * * authorized to contract with each
1097 other for determining the pro rata ownership of such community
1098 hospital, the proportionate cost of maintenance and operation, and
1099 the proportionate financing that each will contribute to the
1100 community hospital.

1101 (3) The owners may likewise contract with each other, or on
1102 behalf of any subordinate political or judicial subdivision, or
1103 with the board of trustees of a community hospital, and/or any
1104 agency of the State of Mississippi or the United States
1105 Government, for necessary purposes related to the establishment,
1106 operation or maintenance of community hospitals and related
1107 programs wherever located, and may either accept from, sell or
1108 contribute to the other entities, monies, personal property or
1109 existing health facilities. The owners or the board of trustees
1110 may also receive monies, property or any other valuables of any
1111 kind through gifts, donations, devises or other recognized means
1112 from any source for the purpose of hospital use.

1113 (4) Owners and boards of trustees, acting jointly or
1114 severally, may acquire and hold real estate for offices for
1115 physicians and other health care practitioners and related health
1116 care or support facilities, provided that any contract for the
1117 purchase of real property must be ratified by the owner, and may
1118 thereon construct and equip, maintain and remodel or expand such
1119 offices and related facilities, and the board of trustees may



1120 lease same to members of the hospital staff or others at a rate
1121 deemed to be in the best interest of the community hospital.

1122 (5) If any political or judicial subdivision of a county is
1123 obligated hereunder, the boundaries of such district shall not be
1124 altered in such a manner as to relieve any portion thereof of its
1125 obligation hereunder.

1126 (6) Owners may convey to any other owner any or all
1127 property, real or personal, comprising any existing community
1128 hospital, including related facilities, wherever located, owned by
1129 such conveying owner. Such conveyance shall be upon such terms
1130 and conditions as may be agreed upon and may make such provisions
1131 for transfers of operating funds and/or for the assumption of
1132 liabilities of the community hospital as may be deemed appropriate
1133 by the respective owners.

1134 (7) (a) Except as provided for in subsection (11) of this
1135 section, owners may lease all or part of the property, real or
1136 personal, comprising a community hospital, including any related
1137 facilities, wherever located, and/or assets of such community
1138 hospital, to any individual, partnership or corporation, whether
1139 operating on a nonprofit basis or on a profit basis, or to the
1140 board of trustees of such community hospital or any other owner or
1141 board of trustees, subject to the applicable provisions of
1142 subsections (8), (9) and (10) of this section. The term of such
1143 lease shall not exceed fifty (50) years. Such lease shall be
1144 conditioned upon (i) the leased facility continuing to operate in



1145 a manner safeguarding community health interests; (ii) the
1146 proceeds from the lease being first applied against such bonds,
1147 notes or other evidence of indebtedness as are issued pursuant to
1148 Section 41-13-19 as and when they are due, provided that the terms
1149 of the lease shall cover any indebtedness pursuant to Section
1150 41-13-19; and (iii) any surplus proceeds from the lease being
1151 deposited in the general fund of the owner, which proceeds may be
1152 used for any lawful purpose. Such lease shall be subject to the
1153 express approval of the board of trustees of the community
1154 hospital, except in the case where the board of trustees of the
1155 community hospital will be the lessee. However, owners may not
1156 lease any community hospital to the University of Mississippi
1157 Medical Center unless first the University of Mississippi Medical
1158 Center has obtained authority to lease such hospital under
1159 specific terms and conditions from the Board of Trustees of State
1160 Institutions of Higher Learning.

1161 If the owner wishes to lease a community hospital without an
1162 option to sell it and the approval of the board of trustees of the
1163 community hospital is required but is not given within thirty (30)
1164 days of the request for its approval by the owner, then the owner
1165 may enter such lease as described herein on the following
1166 conditions: A resolution by the owner describing its intention to
1167 enter such lease shall be published once a week for at least three
1168 (3) consecutive weeks in at least one (1) newspaper published in
1169 the county or city, as the case may be, or if none be so



1170 published, in a newspaper having a general circulation therein.
1171 The first publication of such notice shall be made not less than
1172 twenty-one (21) days prior to the date fixed in such resolution
1173 for the lease of the community hospital and the last publication
1174 shall be made not more than seven (7) days prior to such date.
1175 If, on or prior to the date fixed in such resolution for the lease
1176 of the community hospital, there shall be filed with the clerk of
1177 the owner a petition signed by twenty percent (20%) or fifteen
1178 hundred (1500), whichever is less, of the qualified voters of such
1179 owner, requesting that an election be called and held on the
1180 question of the lease of the community hospital, then it shall be
1181 the duty of the owner to call and provide for the holding of an
1182 election as petitioned for. In such case, no such lease shall be
1183 entered into unless authorized by the affirmative vote of the
1184 majority of the qualified voters of such owner who vote on the
1185 proposition at such election. Notice of such election shall be
1186 given by publication in like manner as hereinabove provided for
1187 the publication of the initial resolution. Such election shall be
1188 conducted and the return thereof made, canvassed and declared as
1189 nearly as may be in like manner as is now or may hereafter be
1190 provided by law in the case of general elections in such owner.
1191 If, on or prior to the date fixed in the owner's resolution for
1192 the lease of the community hospital, no such petition as described
1193 above is filed with the clerk of the owner, then the owner may
1194 proceed with the lease subject to the other requirements of this



1195 section. Subject to the above conditions, the lease agreement
1196 shall be upon such terms and conditions as may be agreed upon and
1197 may make such provision for transfers of tangible and intangible
1198 personal property and operating funds and/or for the assumption of
1199 liabilities of the community hospital and for such lease payments,
1200 all as may be deemed appropriate by the owners.

1201 (b) Owners may sell and convey all or part of the
1202 property, real or personal, comprising a community hospital,
1203 including any related facilities, wherever located, and/or assets
1204 of such community hospital, to any individual, partnership or
1205 corporation, whether operating on a nonprofit basis or on a profit
1206 basis, or to the board of trustees of such community hospital or
1207 any other owner or board of trustees, subject to the applicable
1208 provisions of subsections (8) and (10) of this section. Such sale
1209 and conveyance shall be upon such terms and conditions as may be
1210 agreed upon by the owner and the purchaser that are consistent
1211 with the requirements of this section, and the parties may make
1212 such provisions for the transfer of operating funds or for the
1213 assumption of liabilities of the facility, or both, as they deem
1214 appropriate. However, such sale and conveyance shall be
1215 conditioned upon (i) the facility continuing to operate in a
1216 manner safeguarding community health interests; (ii) the proceeds
1217 from such sale being first applied against such bonds, notes or
1218 other evidence of indebtedness as are issued pursuant to Section
1219 41-13-19 as and when they are due, provided that the terms of the



1220 sale shall cover any indebtedness pursuant to Section 41-13-19;
1221 and (iii) any surplus proceeds from the sale being deposited in
1222 the general fund of the owner, which proceeds may be used for any
1223 lawful purpose. However, owners may not sell or convey any
1224 community hospital to the University of Mississippi Medical Center
1225 unless first the University of Mississippi Medical Center has
1226 obtained authority to purchase such hospital under specific terms
1227 and conditions from the Board of Trustees of State Institutions of
1228 Higher Learning.

1229 (8) Whenever any owner decides that it may be in its best
1230 interests to sell or lease a community hospital as provided for
1231 under subsection (7) of this section, the owner shall first
1232 contract with a certified public accounting firm, a law firm or
1233 competent professional health care or management consultants to
1234 review the current operating condition of the community hospital.
1235 The review shall consist of, at minimum, the following:

1236 (a) A review of the community's inpatient facility
1237 needs based on current workload, historical trends and
1238 projections, based on demographic data, of future needs.

1239 (b) A review of the competitive market for services,
1240 including other hospitals which serve the same area, the services
1241 provided and the market perception of the competitive hospitals.

1242 (c) A review of the hospital's strengths relative to
1243 the competition and its capacity to compete in light of projected
1244 trends and competition.



1245 (d) An analysis of the hospital's options, including
1246 service mix and pricing strategies. If the study concludes that a
1247 sale or lease should occur, the study shall include an analysis of
1248 which option would be best for the community and how much revenues
1249 should be derived from the lease or sale.

1250 (9) After the review and analysis under subsection (8) of
1251 this section, an owner may choose to sell or lease the community
1252 hospital. If an owner chooses to sell such hospital or lease the
1253 hospital with an option to sell it, the owner shall follow the
1254 procedure specified in subsection (10) of this section. If an
1255 owner chooses to lease the hospital without an option to sell it,
1256 it shall first spread upon its minutes why such a lease is in the
1257 best interests of the persons living in the area served by the
1258 facility to be leased, and it shall make public any and all
1259 findings and recommendations made in the review required under
1260 proposals for the lease, which shall state clearly the minimum
1261 required terms of all respondents and the evaluation process that
1262 will be used when the owner reviews the proposals. The owner
1263 shall lease to the respondent submitting the highest and best
1264 proposal. In no case may the owner deviate from the process
1265 provided for in the request for proposals.

1266 (10) If an owner wishes to sell such community hospital or
1267 lease the hospital with an option to sell it, the owner first
1268 shall conduct a public hearing on the issue of the proposed sale
1269 or lease with an option to sell the hospital. Notice of the date,



1270 time, location and purpose of the public hearing shall be
1271 published once a week for at least three (3) consecutive weeks in
1272 at least one (1) newspaper published in the county or city, as the
1273 case may be, or if none be so published, in a newspaper having a
1274 general circulation therein. The first publication of the notice
1275 shall be made not less than twenty-one (21) days before the date
1276 of the public hearing and the last publication shall be made not
1277 more than seven (7) days before that date. If there is filed with
1278 the clerk of the owner not more than twenty-one (21) days after
1279 the date of the public hearing, a petition signed by twenty
1280 percent (20%) or fifteen hundred (1500), whichever is less, of the
1281 qualified voters of the owner, requesting that an election be
1282 called and held on the question of whether the owner should
1283 proceed with the process of seeking proposals for the sale or
1284 lease with an option to sell the hospital, then it shall be the
1285 duty of the owner to call and provide for the holding of an
1286 election as petitioned for. Notice of the election shall be given
1287 by publication in the same manner as provided for the publication
1288 of the notice of the public hearing. The election shall be
1289 conducted and the return thereof made, canvassed and declared in
1290 the same manner as provided by law in the case of general
1291 elections in the owner. If less than a majority of the qualified
1292 voters of the owner who vote on the proposition at such election
1293 vote in favor of the owner proceeding with the process of seeking
1294 proposals for the sale or lease with an option to sell the



1295 hospital, then the owner is not authorized to sell or lease the
1296 hospital. If a majority of the qualified voters of the owner who
1297 vote on the proposition at such election vote in favor of the
1298 owner proceeding with the process of seeking proposals for the
1299 sale or lease with an option to sell the hospital, then the owner
1300 may seek proposals for the sale or lease of the hospital. If no
1301 such petition is timely filed with the clerk of the owner, then
1302 the owner may proceed with the process of seeking proposals for
1303 the sale or lease with an option to sell the hospital. The owner
1304 shall adopt a resolution describing its intention to sell or lease
1305 with an option to sell the hospital, which shall include the
1306 owner's reasons why such a sale or lease is in the best interests
1307 of the persons living in the area served by the facility to be
1308 sold or leased. The owner then shall publish a copy of the
1309 resolution; the requirements for proposals for the sale or lease
1310 with an option to sell the hospital, which shall state clearly the
1311 minimum required terms of all respondents and the evaluation
1312 process that will be used when the owner reviews the proposals;
1313 and the date proposed by the owner for the sale or lease with an
1314 option to sell the hospital. Such publication shall be made once
1315 a week for at least three (3) consecutive weeks in at least one
1316 (1) newspaper published in the county or city, as the case may be,
1317 or if none be so published, in a newspaper having a general
1318 circulation therein. The first publication of the notice shall be
1319 made not less than twenty-one (21) days before the date proposed



1320 for the sale or lease with an option to sell the hospital and the
1321 last publication shall be made not more than seven (7) days before
1322 that date. After receiving proposals, such sale or lease shall be
1323 made to the respondent submitting the highest and best proposal.
1324 In no case may the owner deviate from the process provided for in
1325 the request for proposals.

1326 (11) A lessee of a community hospital, under a lease entered
1327 into under the authority of Section 41-13-15, in effect prior to
1328 July 15, 1993, or an affiliate thereof, may extend or renew such
1329 lease whether or not an option to renew or extend the lease is
1330 contained in the lease, for a term not to exceed fifteen (15)
1331 years, conditioned upon (a) the leased facility continuing to
1332 operate in a manner safeguarding community health interest; (b)
1333 proceeds from the lease being first applied against such bonds,
1334 notes or other evidence of indebtedness as are issued pursuant to
1335 Section 41-13-19; (c) surplus proceeds from the lease being used
1336 for health related purposes; (d) subject to the express approval
1337 of the board of trustees of the community hospital; and (e)
1338 subject to the express approval of the owner. If no board of
1339 trustees is then existing, the owner shall have the right to enter
1340 into a lease upon such terms and conditions as agreed upon by the
1341 parties. Any lease entered into under this subsection (11) may
1342 contain an option to purchase the hospital, on such terms as the
1343 parties shall agree.



1344 (12) All community hospitals that become participants in a
1345 regional health authority under Sections 1 through 19 of this act
1346 shall be governed by Sections 1 through 19 of this act, and shall
1347 no longer be governed by or subject to Sections 41-13-10 through
1348 41-13-53 or Sections 41-13-101 through 41-13-107, except as
1349 amended by or otherwise provided in Sections 1 through 19 of this
1350 act.

1351 (13) The board of a regional health authority under Sections
1352 1 through 19 of this act shall have and assume the powers,
1353 authority, rights, privileges and immunities conferred on the
1354 owners of community hospitals, respectively, as set forth in
1355 Sections 41-13-10 through 41-13-53 and Sections 41-13-101 through
1356 41-13-107, except as amended by or otherwise provided in Sections
1357 1 through 19 of this act.

1358 (14) A regional health authority under Sections 1 through 19
1359 of this act shall not be subject to the provisions of subsections
1360 (7) though (11) of this section.

1361 **SECTION 24.** Section 41-13-19, Mississippi Code of 1972, is
1362 amended as follows:

1363 41-13-19. Such counties, cities and towns, supervisors
1364 districts, judicial districts and election districts of a county
1365 are authorized and empowered to make appropriations of the funds
1366 thereof for the purpose of Sections 41-13-15 through 41-13-51, and
1367 are * * * authorized and empowered to issue and sell the bonds,
1368 notes or other evidences of indebtedness thereof, for the purpose



1369 of providing funds with which to acquire real estate for and to
1370 establish, erect, build, construct, remodel, add to, acquire,
1371 equip and furnish community hospitals, nurses' homes, health
1372 centers, health departments, diagnostic or treatment centers,
1373 rehabilitation facilities, nursing homes and related facilities
1374 under the provisions of such sections. Such bonds, notes or other
1375 evidences of indebtedness secured by a pledge of the full faith,
1376 credit, and resources of the issuing entity shall not be issued in
1377 an amount which will exceed the limit of indebtedness of the
1378 county, city, town, supervisors district, judicial district or
1379 election district issuing the same, as such limit is prescribed by
1380 Sections 19-9-1 et seq., and Sections 21-33-301 et seq. * * *.

1381 Before issuing any such bonds, notes or other evidences of
1382 indebtedness secured by a pledge of the full faith, credit, and
1383 resources of the issuing entity, the board of supervisors, acting
1384 for a county or supervisors district, judicial district or
1385 election district thereof, or the mayor and board of aldermen, or
1386 city council, or other like governing body, acting for a city or
1387 town, shall adopt a resolution declaring its intention to issue
1388 the same, stating the amount and purposes thereof, whether such
1389 hospital, nurses' home, health center, health department,
1390 diagnostic or treatment center, rehabilitation facility, nursing
1391 home or related facilities are to be erected, acquired, remodeled,
1392 equipped, furnished, maintained and operated by such county, city,
1393 town or supervisors district separately, or jointly with one or



1394 more other counties, cities, towns, supervisors districts,
1395 judicial districts or election districts of a county, and fixing
1396 the date upon which further action will be taken to provide for
1397 the issuance of such bonds, notes or other evidences of
1398 indebtedness. The full text of such resolution shall be published
1399 once a week for at least three (3) consecutive weeks in at least
1400 one (1) newspaper published in the county or city, as the case may
1401 be, or if none be so published, in a newspaper having a general
1402 circulation therein. The first publication of such notice shall
1403 be made not less than twenty-one (21) days prior to the date fixed
1404 in such resolution, as aforesaid, and the last publication shall
1405 be made not more than seven (7) days prior to such date. If, on
1406 or prior to the date fixed in such resolution, as aforesaid, there
1407 shall be filed with the clerk of the body by which such resolution
1408 was adopted a petition signed by twenty percent (20%) or fifteen
1409 hundred (1500), whichever is less, of the qualified voters of such
1410 county, city, town, supervisors district, judicial district or
1411 election district, as the case may be, requesting that an election
1412 be called and held on the question of the issuance of such bonds,
1413 notes or other evidences of indebtedness, then it shall be the
1414 duty of the board of supervisors, board of aldermen, city council,
1415 or other governing body, as the case may be, to call and provide
1416 for the holding of an election as petitioned for. In such case no
1417 such bonds, notes or other evidences of indebtedness secured by a
1418 pledge of the full faith, credit, and resources of the issuing



1419 entity shall be issued unless authorized by the affirmative vote
1420 of a majority of the qualified voters of such county, city, town,
1421 supervisors district, judicial district or election district, as
1422 the case may be, who vote on the proposition at such election.
1423 Notice of such election shall be given by publication in like
1424 manner as hereinabove provided for the publication of the initial
1425 resolution. Such election shall be conducted and the return
1426 thereof made, canvassed and declared as nearly as may be in like
1427 manner as is now or may hereafter be provided by law in the case
1428 of general elections in such county, city, town, supervisors
1429 district, judicial district or election district.

1430 In the discretion of the board of supervisors, board of
1431 aldermen, city council, or other governing body, as the case may
1432 be, and after adoption of a resolution declaring its intention to
1433 issue such bonds, notes or other evidences of indebtedness secured
1434 by a pledge of the full faith, credit, and resources of the
1435 issuing entity, an election on the question of the issuance of
1436 such bonds, notes or other evidences of indebtedness may be called
1437 and held as hereinabove provided without the necessity of
1438 publishing * * * the resolution and whether or not a protest to
1439 the issuance be filed with the clerk of the governing body. In
1440 the event that the question of the issuance of such bonds, notes
1441 or other evidences of indebtedness secured by a pledge of the full
1442 faith, credit, and resources of the issuing entity be not
1443 authorized at such election, such question shall not again be



1444 submitted to a vote until the expiration of a period of six (6)
1445 months from and after the date of such election.

1446 In the event of any joint operation or proposed joint
1447 operation as provided by Section 41-13-15, there shall be separate
1448 bond issues, and the board or boards of supervisors acting for a
1449 county, supervisors district, judicial district or election
1450 district, the governing bodies of the municipality or
1451 municipalities, as the case may be, shall each issue the bonds,
1452 notes, or other evidences of indebtedness of the county, town,
1453 city, supervisors district, judicial district or election
1454 district, or districts, in such amounts as having been agreed upon
1455 by the respective boards of supervisors and governing bodies of
1456 the towns or cities, and in so doing follow and comply with the
1457 provisions of Sections 41-13-19 through 41-13-23.

1458 The board of a regional health authority under Sections 1
1459 through 19 of this act is authorized and empowered to make
1460 appropriations of funds and to issue and sell bonds, notes or
1461 other evidences of indebtedness thereof, for the benefit of the
1462 authority, in the same manner as, and subject to all duties,
1463 obligations and provisions set forth in Sections 41-13-19 through
1464 41-13-25.

1465 **SECTION 25.** Section 41-13-35, Mississippi Code of 1972, is
1466 amended as follows:

1467 41-13-35. (1) The board of trustees of any community
1468 hospital shall have full authority to appoint an administrator,



1469 who shall not be a member of the board of trustees, and to
1470 delegate reasonable authority to such administrator for the
1471 operation and maintenance of such hospital and all property and
1472 facilities otherwise appertaining thereto.

1473 (2) The board of trustees shall have full authority to
1474 select from its members, officers and committees and, by
1475 resolution or through the board bylaws, to delegate to such
1476 officers and committees reasonable authority to carry out and
1477 enforce the powers and duties of the board of trustees during the
1478 interim periods between regular meetings of the board of trustees;
1479 provided, however, that any such action taken by an officer or
1480 committee shall be subject to review by the board, and actions may
1481 be withdrawn or nullified at the next subsequent meeting of the
1482 board of trustees if the action is in excess of delegated
1483 authority.

1484 (3) The board of trustees shall be responsible for governing
1485 the community hospital under its control and shall make and
1486 enforce staff and hospital bylaws and/or rules and regulations
1487 necessary for the administration, government, maintenance and/or
1488 expansion of such hospitals. The board of trustees shall keep
1489 minutes of its official business and shall comply with Section
1490 41-9-68.

1491 (4) The decisions of the board of trustees of the community
1492 hospital shall be valid and binding unless expressly prohibited by
1493 applicable statutory or constitutional provisions.



1494 (5) The powers and duties of the board of trustees shall
1495 specifically include, but not be limited to, the following:

1496 (a) To deposit and invest funds of the community
1497 hospital in accordance with Section 27-105-365;

1498 (b) To establish such equitable wage and salary
1499 programs and other employment benefits as may be deemed expedient
1500 or proper, and in so doing, to expend reasonable funds for such
1501 employee salary and benefits. Allowable employee programs shall
1502 specifically include, but not be limited to, medical benefit,
1503 life, accidental death and dismemberment, disability, retirement
1504 and other employee coverage plans. The hospital may offer and
1505 fund such programs directly or by contract with any third party
1506 and shall be authorized to take all actions necessary to
1507 implement, administer and operate such plans, including payroll
1508 deductions for such plans;

1509 (c) To authorize employees to attend and to pay actual
1510 expenses incurred by employees while engaged in hospital business
1511 or in attending recognized educational or professional meetings;

1512 (d) To enter into loan or scholarship agreements with
1513 employees or students to provide educational assistance where such
1514 student or employee agrees to work for a stipulated period of time
1515 for the hospital;

1516 (e) To devise and implement employee incentive
1517 programs;



1518 (f) To recruit and financially assist physicians and
1519 other health care practitioners in establishing, or relocating
1520 practices within the service area of the community hospital
1521 including, without limitation, direct and indirect financial
1522 assistance, loan agreements, agreements guaranteeing minimum
1523 incomes for a stipulated period from opening of the practice and
1524 providing free office space or reduced rental rates for office
1525 space where such recruitment would directly benefit the community
1526 hospital and/or the health and welfare of the citizens of the
1527 service area;

1528 (g) To contract by way of lease, lease-purchase or
1529 otherwise, with any agency, department or other office of
1530 government or any individual, partnership, corporation, owner,
1531 other board of trustees, or other health care facility, for the
1532 providing of property, equipment or services by or to the
1533 community hospital or other entity or regarding any facet of the
1534 construction, management, funding or operation of the community
1535 hospital or any division or department thereof, or any related
1536 activity, including, without limitation, shared management
1537 expertise or employee insurance and retirement programs, and to
1538 terminate those contracts when deemed in the best interests of the
1539 community hospital;

1540 (h) To file suit on behalf of the community hospital to
1541 enforce any right or claims accruing to the hospital and to defend



1542 and/or settle claims against the community hospital and/or its
1543 board of trustees;

1544 (i) To sell or otherwise dispose of any chattel
1545 property of the community hospital by any method deemed
1546 appropriate by the board where such disposition is consistent with
1547 the hospital purposes or where such property is deemed by the
1548 board to be surplus or otherwise unneeded;

1549 (j) To let contracts for the construction, remodeling,
1550 expansion or acquisition, by lease or purchase, of hospital or
1551 health care facilities, including real property, within the
1552 service area for community hospital purposes where such may be
1553 done with operational funds without encumbrancing the general
1554 funds of the county or municipality, provided that any contract
1555 for the purchase or lease of real property must have the prior
1556 approval of the owner;

1557 (k) To borrow money and enter other financing
1558 arrangements for community hospital and related purposes and to
1559 grant security interests in hospital equipment and other hospital
1560 assets and to pledge a percentage of hospital revenues as security
1561 for such financings where needed; provided that the owner shall
1562 specify by resolution the maximum borrowing authority and maximum
1563 percent of revenue that may be pledged by the board of trustees
1564 during any given fiscal year;

1565 (l) To expend hospital funds for public relations or
1566 advertising programs;



1567 (m) To offer the following inpatient and outpatient
1568 services, after complying with applicable health planning,
1569 licensure statutes and regulations, whether or not heretofore
1570 offered by such hospital or other similar hospitals in this state
1571 and whether or not heretofore authorized to be offered, long-term
1572 care, extended care, home care, after-hours clinic services,
1573 ambulatory surgical clinic services, preventative health care
1574 services including wellness services, health education,
1575 rehabilitation and diagnostic and treatment services; to promote,
1576 develop, operate and maintain a center providing care or
1577 residential facilities for the aged, convalescent or handicapped;
1578 and to promote, develop and institute any other services having an
1579 appropriate place in the operation of a hospital offering complete
1580 community health care;

1581 (n) To promote, develop, acquire, operate and maintain
1582 on a nonprofit basis, or on a profit basis if the community
1583 hospital's share of profits is used solely for community hospital
1584 and related purposes in accordance with this chapter, either
1585 separately or jointly with one or more other hospitals or
1586 health-related organizations, facilities and equipment for
1587 providing goods, services and programs for hospitals, other health
1588 care providers, and other persons or entities in need of such
1589 goods, services and programs and, in doing so, to provide for
1590 contracts of employment or contracts for services and ownership of
1591 property on terms that will protect the public interest;



1592 (o) To establish and operate medical offices, child
1593 care centers, wellness or fitness centers and other facilities and
1594 programs which the board determines are appropriate in the
1595 operation of a community hospital for the benefit of its
1596 employees, personnel and/or medical staff which shall be operated
1597 as an integral part of the hospital and which may, in the
1598 direction of the board of trustees, be offered to the general
1599 public. If such programs are not established in existing
1600 facilities or constructed on real estate previously acquired by
1601 the owners, the board of trustees shall also have authority to
1602 acquire, by lease or purchase, such facilities and real property
1603 within the service area, whether or not adjacent to existing
1604 facilities, provided that any contract for the purchase of real
1605 property shall be ratified by the owner. The trustees shall lease
1606 any such medical offices to members of the medical staff at rates
1607 deemed appropriate and may, in its discretion, establish rates to
1608 be paid for the use of other facilities or programs by its
1609 employees or personnel or members of the public whom the trustees
1610 may determine may properly use such other facilities or programs;

1611 (p) Provide, at its discretion, ambulance service
1612 and/or to contract with any third party, public or private, for
1613 the providing of such service;

1614 (q) Establish a fair and equitable system for the
1615 billing of patients for care or users of services received through
1616 the community hospital, which in the exercise of the board of



1617 trustees' prudent fiscal discretion, may allow for rates to be
1618 classified according to the potential usage by an identified group
1619 or groups of patients of the community hospital's services and may
1620 allow for standard discounts where the discount is designed to
1621 reduce the operating costs or increase the revenues of the
1622 community hospital. Such billing system may also allow for the
1623 payment of charges by means of a credit card or similar device and
1624 allow for payment of administrative fees as may be regularly
1625 imposed by a banking institution or other credit service
1626 organization for the use of such cards;

1627 (r) To establish as an organizational part of the
1628 hospital or to aid in establishing as a separate entity from the
1629 hospital, hospital auxiliaries designed to aid the hospital, its
1630 patients, and/or families and visitors of patients, and when the
1631 auxiliary is established as a separate entity from the hospital,
1632 the board of trustees may cooperate with the auxiliary in its
1633 operations as the board of trustees deems appropriate;

1634 (s) To make any agreements or contracts with the
1635 federal government or any agency thereof, the State of Mississippi
1636 or any agency thereof, and any county, city, town, supervisors
1637 district or election district within this state, jointly or
1638 separately, for the maintenance of charity facilities;

1639 (t) To acquire hospitals, health care facilities and
1640 other health care-related operations and assets, through direct
1641 purchase, merger, consolidation, lease or other means;



1642 (u) To enter into joint ventures, joint-operating
1643 agreements or similar arrangements with other public or private
1644 health care-related organizations, or with for-profit or nonprofit
1645 corporations, for-profit or nonprofit limited liability companies
1646 or other similar organizations, either directly or through a
1647 nonprofit corporation formed or owned by the community hospital,
1648 for the joint operation of all or part of the community hospital,
1649 or the joint operation of any health care facilities or health
1650 care services, and in doing so, to convey the community hospital's
1651 assets, service lines or facilities to the joint venture or to any
1652 other organization or entity for fair market value, and to provide
1653 for contracts of employment or contracts for services and
1654 ownership of property that will protect the public interest;

1655 (v) To form, establish, fund and operate nonprofit
1656 corporations, nonprofit limited liability companies,
1657 state-sponsored entities or other similar organizations, either
1658 directly or through a nonprofit corporation formed by the
1659 community hospital, which are jointly owned with other public or
1660 private hospitals, for-profit or nonprofit corporations, or other
1661 health care-related organizations, for the purpose of conducting
1662 activities within or outside of the community hospital's service
1663 area for the benefit of the community hospital, including, but not
1664 limited to, joint hospital acquisitions, group purchasing,
1665 clinically integrated networks, payor contracting, and joint
1666 requests for federal and state grants and funding;



1667 (w) To make capital contributions, loans, debt or
1668 equity financing to or for any joint venture or similar
1669 arrangement in which the community hospital, or any nonprofit
1670 corporation formed, leased or owned by the community hospital, has
1671 or acquires an ownership interest, and to guarantee loans and any
1672 other obligations for such purposes;

1673 (x) To establish arrangements for the community
1674 hospital to participate in financial integration and/or clinical
1675 integration or clinically integrated networks with a joint
1676 venture, with other public or private or nonprofit health-related
1677 organizations, or through a joint-operating agreement;

1678 (y) To have an ownership interest in, make capital
1679 contributions to, and assume financial risk under, accountable
1680 care organizations or similar organizations;

1681 (z) To enter into any contract for a term of any
1682 length, regardless of whether the length or term of the contract
1683 exceeds the term of the board of trustees of the community
1684 hospital;

1685 (aa) To elect some, any or all of the members of the
1686 board of directors of any nonprofit corporation of which the
1687 community hospital is a member;

1688 (bb) To create, establish, acquire, operate or support
1689 subsidiaries and affiliates, either for-profit or nonprofit or
1690 other similar entity, to assist the community hospital in
1691 fulfilling its purposes;



1692 (cc) To create, establish or support nonaffiliated
1693 for-profit or nonprofit corporations or other similar lawful
1694 business organizations that operate and have as their purposes the
1695 furtherance of the community hospital's purposes;

1696 (dd) Without limiting the generality of any provisions
1697 of this section, to accomplish and facilitate the creation,
1698 establishment, acquisition, operation or support of any such
1699 subsidiary, affiliate, nonaffiliated corporation or other lawful
1700 business organization, by means of loans of funds, acquisition or
1701 transfer of assets, leases of real or personal property, gifts and
1702 grants of funds or guarantees of indebtedness of such
1703 subsidiaries, affiliates and nonaffiliated corporations;

1704 (ee) To exercise all powers granted under this section
1705 in such a manner as the community hospital, through its board of
1706 trustees, may determine to be consistent with the purposes of this
1707 chapter, including the state action immunity provided by this
1708 section from state and federal antitrust laws to the fullest
1709 extent possible, notwithstanding that as a consequence of such
1710 exercise of such powers it engages in activities that may be
1711 deemed "anticompetitive" or which displace competition within the
1712 meaning or contemplation of the antitrust laws of this state or of
1713 the United States; and

1714 (ff) The board of trustees shall not sell, purchase,
1715 convey, lease, or enter into agreements that have the effect of
1716 selling, purchasing, conveying, or leasing any real property or



1717 enter into management agreements, merger agreements, joint
1718 ventures, joint-operating agreements or similar arrangements that
1719 transfer control of any real property or the operations of a
1720 community hospital described in this subsection without the prior
1721 approval of the owners of the real property.

1722 (6) No board of trustees of any community hospital may
1723 accept any grant of money or other thing of value from any
1724 not-for-profit or for-profit organization established for the
1725 purpose of supporting health care in the area served by the
1726 facility unless two-thirds (2/3) of the trustees vote to accept
1727 the grant.

1728 (7) No board of trustees, individual trustee or any other
1729 person who is an agent or servant of the trustees of any community
1730 hospital shall have any personal financial interest in any
1731 not-for-profit or for-profit organization which, regardless of its
1732 stated purpose of incorporation, provides assistance in the form
1733 of grants of money or property to community hospitals or provides
1734 services to community hospitals in the form of performance of
1735 functions normally associated with the operations of a hospital.

1736 (8) The Legislature finds and declares as follows:

1737 (a) The needs of the residents of Mississippi can best
1738 be served by community hospitals having the legal, financial and
1739 operational flexibility to take full advantage of opportunities
1740 and challenges presented by the evolving health care environment
1741 and to take whatever actions are necessary to enable the community



1742 hospitals' continuation as health care systems that provide the
1743 finest possible quality of care consistent with reasonable costs.

1744 (b) In this environment, the community hospitals must
1745 have the ability to respond to changing conditions by having the
1746 power to develop efficient and cost-effective methods and
1747 structures to provide for health care needs, while maintaining a
1748 public mission and character. In addition, community hospitals in
1749 Mississippi are political subdivisions of the state. Accordingly,
1750 the Legislature finds that there is a compelling interest in
1751 establishing a structure and process for a community hospital to
1752 adapt to this dynamic environment, to operate efficiently, to
1753 offer competitive health care services, to respond more
1754 effectively to new developments and regulatory changes in the
1755 health care area, and to continue to serve and promote the health,
1756 wellness and welfare of the citizens of Mississippi. The
1757 acquisition, operation and financing of hospitals and other health
1758 care facilities by the community hospitals are declared to be for
1759 a public and governmental purpose and a matter of public
1760 necessity.

1761 (c) The geographic areas served by community hospitals
1762 include rural populations and other groups that experience
1763 significant health disparities. Health disparities are
1764 differences in health status when compared to the population
1765 overall, often characterized by indicators such as higher
1766 incidence of disease and/or disability, increased mortality rates,



1767 and lower life expectancies. Rural risk factors for health
1768 disparities include geographic isolation, lower socioeconomic
1769 status, higher rates of health risk behaviors and limited access
1770 to health care specialists and subspecialists. As a result of
1771 these health disparities, the residents of areas served by
1772 community hospitals have high rates of mortality and morbidity,
1773 heart disease, cancer, diabetes and other illnesses. The areas
1774 also include a high percentage of uninsured individuals and
1775 Medicaid patients, which are medically underserved groups.
1776 Community hospitals have demonstrated their ability to provide
1777 high-quality health care and to improve health conditions and
1778 outcomes as well as access to care. This section will
1779 significantly strengthen the ability of community hospitals to
1780 serve the health care needs of the residents of their service
1781 areas.

1782 (d) The community hospitals' investment of significant
1783 public assets and their efforts to provide high quality health
1784 care services to medically underserved populations are jeopardized
1785 by potential limits on the ability of community hospitals to
1786 collaborate and consolidate with other public, private, for-profit
1787 and nonprofit health care facilities and providers. The
1788 Legislature expressly finds that the benefits of collaboration and
1789 consolidation by the community hospitals outweigh any adverse
1790 impact on competition. The benefits of the community hospitals'
1791 efforts to collaborate and consolidate include, but are not



1792 limited to, preserving and expanding needed health care services
1793 in its service area; consolidating unneeded or duplicative health
1794 care services; enhancing the quality of, and expanding access to,
1795 health care delivered to medically underserved and rural
1796 populations; and lowering costs and improving the efficiency of
1797 the health care services it delivers. Based on the findings
1798 contained in this section, the Legislature affirmatively expresses
1799 a policy to allow community hospitals to consolidate with other
1800 public, private, for-profit or nonprofit hospitals, health care
1801 facilities and providers and to engage in collaborative activities
1802 consistent with their health care purposes, notwithstanding that
1803 those consolidations and collaborations may have the effect of
1804 displacing competition in the provision of hospital or other
1805 health care-related services. In engaging in such consolidations
1806 and collaborations with other public, private, for-profit or
1807 nonprofit hospitals, health care facilities and providers, the
1808 community hospital shall be considered to be acting pursuant to
1809 clearly articulated state policy as established in this section
1810 and shall not be subject to federal or state antitrust laws while
1811 so acting. With respect to the consolidations, collaborative
1812 activities and other activities contemplated in this section, the
1813 community hospital and the public, private, for-profit or
1814 nonprofit entities with which it consolidates, collaborates, or
1815 enters into any of the transactions set forth in this section,
1816 shall be immune from liability under the federal and state



1817 antitrust laws and those activities are provided with state action
1818 immunity from federal and state antitrust laws to the fullest
1819 extent possible.

1820 (9) The board of a regional health authority under Sections
1821 1 through 19 of this act shall have and assume the powers,
1822 authority, rights, privileges and immunities conferred on the
1823 boards of trustees of community hospitals, respectively, as set
1824 forth in Sections 41-13-10 through 41-13-53 and Sections 41-13-101
1825 through 41-13-107, except as amended by or otherwise provided in
1826 Sections 1 through 19 of this act.

1827 **SECTION 26.** Section 41-13-47, Mississippi Code of 1972, is
1828 amended as follows:

1829 41-13-47. (1) On or before the first Monday in September of
1830 each year, the * * * board of trustees shall make, enter on its
1831 minutes and file with the owner or owners, separately or jointly
1832 interested in * * * the hospital, a proposed budget based on
1833 anticipated income and expenditures for the ensuing fiscal year.
1834 Such budget, as submitted or amended, shall be approved by
1835 the * * * owner or owners, as the case may be, which approval
1836 shall be evidenced by a proper order recorded upon the minutes of
1837 each such owner.

1838 (2) On or before the first Monday in March of each
1839 year, * * * the board of trustees shall also make, enter on its
1840 minutes and file with such owner or owners a full fiscal year



1841 report which shall contain a complete and correct accounting of
1842 all funds received and expended for all hospital purposes.

1843 (3) The board of a regional health authority under Sections
1844 1 through 19 of this act shall not be required to (a) submit to
1845 any owner a proposed budget for the ensuing fiscal year; (b)
1846 obtain the approval of any budget by any owner; or (c) file with
1847 any owner a full fiscal year report.

1848 **SECTION 27.** Section 41-13-101, Mississippi Code of 1972, is
1849 amended as follows:

1850 41-13-101. (1) There is * * * authorized the establishment,
1851 maintenance, administration and operation of any trust established
1852 by agreement of any hospitals or other health-care units licensed
1853 as such by the State of Mississippi, including without limitation,
1854 community hospitals established under this chapter (hereinafter
1855 referred to as "hospitals") as grantors, with such hospitals as
1856 beneficiaries, for the purpose of insuring against general public
1857 liability claims based upon acts or omissions of such hospitals,
1858 including without limitation, claims based upon malpractice. Such
1859 hospitals may, by trust agreement among themselves and a trustee
1860 or trustees of their selection, specify the terms, conditions and
1861 provisions of such a trust.

1862 (2) The board of a regional health authority under Sections
1863 1 through 19 of this act is authorized to establish, maintain,
1864 administer and operate any trust as described in this section and,



1865 in such event, shall be subject to the terms, provisions and
1866 requirements of Sections 41-13-101 through 41-13-107.

1867 **SECTION 28.** This act shall take effect and be in force from
1868 and after its passage.

