

The Mississippi Legislature



A Limited Review of the Golden Triangle Regional Medical Center: Ownership Issues and Role of Support Corporations

November 16, 1992

On August 24, 1992, the Lowndes County Board of Supervisors voted to advertise for sale or lease of Golden Triangle Regional Medical Center (GTRMC), a 326-bed county-owned public hospital located in Columbus, Mississippi. The board of supervisors failed to utilize a systematic approach and objective criteria to determine whether to sell or lease GTRMC. In addition, the board of supervisors and GTRMC Board of Trustees did not formally evaluate all eleven proposals received for the sale or lease of GTRMC prior to selecting Baptist Memorial Health Care Systems' proposal for further negotiation.

Local health care supporters organized four corporations to expand community involvement in health care, particularly that provided by GTRMC. However, GTRMC employees influence operation of the corporations heavily, thus compromising the corporations' original intent.

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A Limited Review of the Golden Triangle Regional Medical Center:

Ownership Issues and Role of Support Corporations

November 16, 1992

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee



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November 16, 1992

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At its meeting of November 16, 1992, the PEER Committee authorized release of the report entitled **A Limited Review of the Golden Triangle Regional Medical Center: Ownership Issues and Role of Support Corporations.**

A handwritten signature in cursive script that reads "Bill Canon".

Senator Bill Canon, Chairman

**This report does not recommend increased
funding or additional staff.**

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A Limited Review of the Golden Triangle Regional Medical Center: Ownership Issues and Role of Support Corporations

November 16, 1992

Executive Summary

Introduction

MISS. CODE ANN. Section 41-13-15 (7) (1972) authorizes owners (boards of supervisors) of community hospitals to lease such hospitals to any individual, partnership, corporation, other owner or board of trustees operating on a nonprofit basis for a term not exceeding fifty years.

During its August 24, 1992, meeting, the Lowndes County Board of Supervisors agreed to advertise to receive proposals for the sale or lease of Golden Triangle Regional Medical Center (GTRMC), a 326-bed county-owned hospital located in Columbus. Lowndes County supervisors chose to consider GTRMC property interest changes because of citizen complaints regarding GTRMC operations and the medical center's relationship with four support corporations formed to enhance health care within the Columbus/Lowndes County area.

Overview

State law governing the leasing of public hospitals does not give specifics concerning the method for accomplishing a hospital lease. In the absence of specific guidance, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to determine whether to sell or lease GTRMC. In addition, the Lowndes County Board of Supervisors and GTRMC Board of Trustees did not formally evaluate all eleven proposals received for the sale or lease of GTRMC prior to selecting one proposal, that of Baptist Memorial Health Care Systems, for further negotiation.

Local health care supporters organized four corporations to expand community involvement in health care, particularly that provided by Golden Triangle Regional Medical Center. However, operation of the corporations is heavily influenced by GTRMC employees, thus compromising the corporations' original intent to produce greater community involvement.

Findings

Lowndes County Board of Supervisors' Decision to Lease GTRMC

Although state law gives no specifics concerning the leasing of public hospitals, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to determine whether to sell or lease GTRMC.

MISS. CODE ANN. Section 41-13-15 and other sections relating to public hospitals provide no specific details regarding the method and criteria county boards of supervisors must follow to sell or lease a public hospital. In the absence of specific statutory guidelines, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to ensure the objectivity and reasonableness of its decision to sell or lease Golden Triangle Regional Medical Center.

- *The Lowndes County Board of Supervisors has not followed a systematic approach in developing a decision to sell or lease GTRMC.*

In an effort to handle GTRMC's perceived operational problems, the Lowndes County Board of Supervisors has failed to utilize a systematic approach to make a property interest decision regarding GTRMC. The board has essentially acted and reacted to events and public perceptions regarding GTRMC. Supervisors did not develop a systematic approach for determining whether the county's property interest in GTRMC should be changed. The board continues to make decisions regarding GTRMC in an *ad hoc* manner with limited planning or evaluation for the current and long-term health care needs of the county. One supervisor told PEER that there has been no sense of continuity among the supervisors regarding GTRMC, primarily because the board's informal agenda for handling GTRMC has been set by supervisors who want the county to discontinue its involvement in GTRMC.

The primary effect of the board's failure to follow a systematic approach regarding a GTRMC decision is that the board's actions and decisions have been dictated generally by the public and individual supervisors' beliefs, rather than objective analysis. The board's non-cohesive approach to GTRMC may result in a solution which does not fulfill the long-term health care needs of Lowndes County citizens.

- *The Lowndes County Board of Supervisors has no objective criteria on which to base a decision to sell or lease GTRMC.*

Lowndes County supervisors based their decision to sell or lease GTRMC on undocumented criteria, including reported reductions in GTRMC's patient census, reported GTRMC monthly losses in excess of \$200,000, and unsatisfactorily explained relationships between GTRMC and health-related for-profit and not-for-profit corporations. While the board of supervisors may have had legitimate concerns with each of these areas, the supervisors did not objectively document each of their concerns or criteria in these areas. The board's 1992 minutes during which GTRMC was discussed contain no official statements explaining the reasons for or necessity of the board's property interest decisions relative to GTRMC.

The primary effect of the board's lack of criteria is that the board cannot objectively and factually defend its decision to sell or lease GTRMC. The board has no objective information with which to prove to the general public that it would be in the best economic and health care interest of Lowndes County to make property interest changes of GTRMC.

The Lowndes County Board of Supervisors and GTRMC Board of Trustees did not formally evaluate all proposals received for the sale or lease of GTRMC prior to selecting one proposal for further negotiation.

During its September 30, 1992, meeting, the Lowndes County Board of Supervisors received and opened proposals from eleven potential purchasers/lessees. Twelve days later, during an October 12 joint meeting with the board of supervisors, the GTRMC trustees made a recommendation to lease GTRMC to Baptist Memorial Health Care Systems, Inc. (Memphis, Tennessee), which the supervisors adopted on a 3-2 vote after a brief discussion.

Neither the GTRMC Board of Trustees nor the Lowndes County Board of Supervisors held a formal work session to analyze the eleven proposals to determine their adherence with provisions of the request for proposals. The boards relied entirely on their members personally and independently analyzing the various proposals to determine which one was in the best interest of Lowndes County and its long-term health care needs.

The primary effect of the board of supervisors' and board of trustees' failure to evaluate formally all eleven proposals is that the county has no objective evaluation to ensure that the Baptist proposal is the best one to provide long-term health care for Lowndes County citizens.

Support Corporations' Relationships to GTRMC

Local health care supporters organized four corporations to expand community involvement in health care, particularly that provided by Golden Triangle Regional Medical Center. However, operation of the corporations is heavily influenced by GTRMC employees, thus compromising the corporations' original intent to produce greater community involvement.

From August 1985 through December 1987, local health care supporters (in conjunction with GTRMC administrators) established a foundation and three other corporations to expand community involvement in health care. Each entity enlisted the support and affiliation of influential citizens from Columbus/Lowndes County in an effort to fund and promote health care projects.

- *Local health care supporters established the four health-related corporations primarily to enhance health care within the Golden Triangle region.*

These corporations, established in the mid-1980s, were intended to provide a method by which interested individuals could receive tax advantages by financially contributing to health care efforts and projects. The four corporations were:

- Golden Triangle Regional Medical Foundation, a not-for-profit foundation to provide charitable benefits to GTRMC and other health-care organizations or efforts.

- Advanced Recovery, Inc., a for-profit collection agency formed by the foundation, primarily to collect accounts on behalf of GTRMC.
- Advanced Health Services, Inc., a not-for-profit holding company to serve as a parent corporation for the foundation's for-profit entities.
- Advanced Health Enterprises, Inc., a for-profit joint venture with a group of Columbus-area orthopaedics specialists, with GTRMC leasing space, equipment, and employees to the corporation.
- *GTRMC employees have been heavily involved in the operation of the corporations from their inception, resulting in corporation officers knowing very little about their own corporations' actual operations and activities.*

The involvement of GTRMC administrators and employees in these corporations has resulted in corporate directors, those individuals legally responsible for the corporations, knowing very little about their own corporations' actual operations and activities.

GTRMC administrators and employees became heavily involved in the operations of support corporations either because the GTRMC trustees were not fully and officially informed of their involvement or GTRMC trustees were informed and chose not to interfere with such involvement. The involvement of GTRMC personnel in the support corporations has allowed medical center administrators (specifically Charles Faulkner, GTRMC Administrator, and William Lancaster, GTRMC Administrator for General Services) to provide a "guiding hand" over the support corporations and to circumvent state purchasing laws for items purchased on behalf of GTRMC by one of the corporations.

The involvement of GTRMC personnel in the support corporations has also diminished the GTRMC Board of Trustees' ability to manage and control medical center activities effectively and make financial decisions on behalf of GTRMC.

Recommendations

1. The Lowndes County Board of Supervisors should consider suspending lease negotiations with Baptist Memorial Health Care Systems in order to employ a nationally recognized health care consultant (or consulting firm) to study and analyze thoroughly GTRMC's financial and operational potential.
2. The Golden Triangle Regional Medical Center Board of Trustees should direct its staff to cease immediately the practice of providing administrative assistance, accounting services, and account management services to any and all not-for-profit or profit-making private firms which were established to foster greater community involvement in health care. Such entities should be required to employ their own staffs, with absolutely no reliance on GTRMC staff.
3. The Legislature should amend MISS. CODE ANN. Section 41-13-15 (1972) to require that, prior to making a decision to lease a community hospital, the owners shall conduct a thorough and complete study of the hospital and its operations.
4. The Legislature should amend MISS. CODE ANN. Section 41-13-15 (1972) to require that any owner planning to lease or sell a hospital issue a request for proposals. Such a document should outline what the owner is planning to do, provide any terms with which the respondent must comply, and provide complete and correct assurances regarding the equity and fairness to be extended to all respondents. State law should also require the owner to have all proposals reviewed by competent, independent professionals prior to selecting a proposal for sale or lease.
5. The Legislature should amend MISS. CODE ANN. Section 41-15-35 (1972) to require that, prior to accepting any money or item of value from a not-for-profit or for-profit firm, the trustees of a community hospital vote on such acceptance. Any vote in which fewer than two-thirds of the trustees vote for acceptance of a gift of money or other thing of value shall constitute a rejection of the gift or grant.

6. The Legislature should amend MISS. CODE ANN. Section 41-13-35 (1972) to prohibit employees and members of community hospital boards of trustees from creating, attempting to create, encouraging the creation of, or ratifying the creation of, any not-for-profit or for-profit organization which, regardless of its stated purpose of incorporation, provides assistance in the form of grants of money or property to community hospitals, or provides services

to community hospitals in the form of performance of functions normally associated with the operations of a hospital.

7. The Legislature should amend MISS. CODE ANN. Section 25-41-3 (a) (1972) to revise the definition of "public body" so as to include community hospital boards of trustees within the definition of public body for purposes of the open meetings law (MISS. CODE ANN. Section 25-41-1 et seq.).

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A Limited Review of the Golden Triangle Regional Medical Center: Ownership Issues and Role of Support Corporations

Introduction

Authority

In response to citizen concerns, the PEER Committee began this limited review of the Golden Triangle Regional Medical Center (GTRMC) at its September 28, 1992, meeting. The Committee conducted the review in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Purpose and Scope

The purpose of this review is to determine the county's current ownership status of GTRMC and the medical center's relationship with support corporations such as the Golden Triangle Regional Medical Foundation; Advanced Health Services, Inc.; Advanced Recovery, Inc.; and Advanced Health Enterprises, Inc.

Methodology

In conducting this review, PEER:

- reviewed Mississippi statutes relative to ownership of public hospitals;
- interviewed officials and representatives of GTRMC; Golden Triangle Regional Medical Foundation; Advanced Health Services, Inc.; Advanced Recovery, Inc.; and Advanced Health Enterprises, Inc.; and,
- reviewed minutes and other pertinent records of GTRMC and the above-mentioned support corporations.

Overview

State law governing the leasing of public hospitals does not give specifics concerning the method for accomplishing a hospital lease. In the absence of specific guidance, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to determine whether to sell or lease GTRMC. In addition, the Lowndes County Board of

Supervisors and GTRMC Board of Trustees did not formally evaluate all eleven proposals received for the sale or lease of GTRMC prior to selecting one proposal, that of Baptist Memorial Health Care Systems, for further negotiation.

Local health care supporters organized four corporations to expand community involvement in health care, particularly that provided by Golden Triangle Regional Medical Center. However, operation of the corporations is heavily influenced by GTRMC administrators and employees, thus compromising the corporations' original intent of producing greater community involvement.

Background

The Lowndes County Board of Supervisors established the Golden Triangle Regional Medical Center (GTRMC) in 1969 as a 326-bed county-owned hospital located in Columbus, Mississippi. GTRMC represents a significant asset of Lowndes County, with an approximate market value of \$38.5 million. GTRMC has a seven-county service area, including Lowndes County. The board of supervisors governs GTRMC through a seven-member board of trustees appointed for five-year terms by the supervisors. Five of the trustees represent the county's supervisory districts, with two trustees representing the county at-large.

On August 9, 1991, GTRMC signed a sublease agreement with owners of the Columbus Hospital, Inc. The county, as a party to the sublease, agreed to commit an amount equal to five mills per year to support GTRMC. According to the Lowndes County bookkeeper, the county's annual contribution is not designated for lease payments or any other particular purpose. In compliance with the lease agreement, Lowndes County remitted \$800,000 during fiscal year 1992 to GTRMC for its general operation. The county also remitted \$75,000 of a \$150,000 agreement between the county and GTRMC for ambulance service. During fiscal year 1992, Lowndes County also paid \$540,282 in bond principal and interest on behalf of GTRMC for various capital improvement bonds.

Concerns Regarding GTRMC's Operations

According to the President of the Lowndes County Board of Supervisors, he and other candidates for supervisor continually received citizen complaints regarding "the hospital, ambulance service and potholes" as they campaigned during the fall of 1991. In response to these concerns, the board president and other supervisors began attending meetings of the GTRMC trustees to obtain information regarding GTRMC's operations. Information obtained during those meetings concerned the supervisors regarding the financial and operational stability of GTRMC. For example, the supervisors and others within the community were concerned with GTRMC's reported declining patient census and resulting declining revenues. The supervisors were also concerned about the many citizen complaints received regarding long waiting times in GTRMC's emergency room. In response to these and other concerns, some supervisors formed the opinion that Lowndes County should discontinue operating its public hospital.

Concerns Regarding GTRMC's Relationship With Support Corporations

Lowndes County supervisors also received complaints about GTRMC's relationship with four support corporations formed to enhance health care within the Columbus/Lowndes County area. Most of the citizen complaints focused on Advanced Recovery, Inc., GTRMC's external collection agency. The supervisors and concerned citizens were of the opinion that GTRMC and the support corporations operated under a "cloak of secrecy" designed to limit the general public's knowledge of certain decisions and actions.

Board Actions Regarding GTRMC

During its August 24, 1992, meeting, the Lowndes County Board of Supervisors agreed to advertise to receive proposals for the sale or lease of GTRMC. According to county officials, they asked for both sale or lease proposals because they wanted to consider all possible alternatives for GTRMC's future. In requesting sale proposals, the board of supervisors was under the impression that MISS. CODE ANN. Section 41-13-15 (7) (1972), enacted during the 1992 legislative session, authorized counties to sell public hospitals any time prior to January 1, 1993. On October 9 and November 4, 1992, Attorney General Mike Moore issued opinions stating that the provisions of subsection 7 apply only to the sale of certain hospitals--i.e., those which filed for bankruptcy prior to March 13, 1990. (See Appendix A, page 31.) Since GTRMC has not filed for bankruptcy, subsection 7 could not apply to its proposed disposition. The only option available to the supervisors was the leasing of GTRMC.

During its September 30 meeting, the board of supervisors received and opened eleven proposals--three for the purchase of GTRMC, one for the lease of GTRMC, and seven for the lease or purchase of GTRMC. Upon a recommendation of the GTRMC Board of Trustees, the supervisors voted on October 12 to begin negotiating with Baptist Memorial Health Care Systems (Memphis, Tennessee) for a thirty-five-year lease of GTRMC.

Findings

Lowndes County Board of Supervisors' Decision to Lease GTRMC

Although state law gives no specifics concerning the leasing of public hospitals, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to determine whether to sell or lease GTRMC.

MISS. CODE ANN. Section 41-13-15 (7) (1972) authorizes owners (boards of supervisors) of community hospitals to lease such hospitals to any individual, partnership, corporation, other owner or board of trustees operating on a nonprofit basis for a term not exceeding fifty years. Such lease is conditioned upon (a) the lease facility continuing to operate on a nonprofit basis in a manner safeguarding community health interests; (b) proceeds from the lease being first applied against the facility's outstanding indebtedness; (c) surplus proceeds from the lease being used for health-related purposes; and (d) being subject to the express approval of the board of trustees of the community hospital.

CODE Section 41-13-15 and other sections relating to public hospitals provide no specific details regarding the method and criteria county boards of supervisors must follow to sell or lease a public hospital. In the absence of specific statutory guidelines, the Lowndes County Board of Supervisors failed to utilize a systematic approach and objective criteria to ensure the objectivity and reasonableness of its decision to sell or lease Golden Triangle Regional Medical Center.

- *The Lowndes County Board of Supervisors has not followed a systematic approach in developing a decision to sell or lease GTRMC.*

*Response to Constituents' Complaints--*As stated on page 3, candidates for supervisor received comments and complaints about GTRMC during the campaign of 1991. According to the board of supervisors president, several of the supervisors assumed their offices in January 1992 intent on "looking into the hospital situation." The board president said that he and other supervisors began attending board of trustees meetings to ask questions and obtain information regarding GTRMC's operations. In the opinion of these supervisors, GTRMC trustees and administrators failed to provide satisfactory and responsive answers, which led some supervisors to decide that they should take steps to correct GTRMC's perceived operational weaknesses and mismanagement.

In an effort to "look into the hospital situation," the Lowndes County Board of Supervisors failed to utilize a systematic approach to make a

property interest decision regarding GTRMC. The board has essentially reacted to events and public perceptions regarding GTRMC.

Unofficial, Individual Board Member's Actions--During its January 6 meeting the board of supervisors entertained motions for an audit of GTRMC and a meeting between the supervisors and GTRMC trustees to discuss citizen complaints regarding GTRMC. The board did not adopt either motion. The next major discussion concerning Lowndes County's property interest in GTRMC occurred during the board's May 29, 1992, meeting. During this meeting, board president Johnny Mack McCrary made a motion to merge GTRMC with North Mississippi Health Services, Inc., which operates North Mississippi Medical Center in Tupelo. Prior to the May 29 meeting, Supervisor McCrary personally negotiated (without the knowledge or official permission of other Lowndes County supervisors) with North Mississippi representatives to develop a merger agreement for presentation to the Lowndes County Board of Supervisors. Supervisor McCrary's motion failed without a majority vote.

Supervisor McCrary said that it was his personal opinion that Lowndes County should not be "in the hospital business." He said that he negotiated the merger agreement with North Mississippi in an effort to bring the GTRMC complaints "to a head" and to the attention of Lowndes County citizens. Supervisor McCrary acknowledged that he may have mishandled his negotiations with North Mississippi by failing to include the entire board of supervisors formally in the negotiation process. However, he contends that his efforts were necessary to begin much-needed discussions concerning GTRMC's ownership and operations. Following Supervisor McCrary's actions, considerable public discussion has ensued concerning the county's involvement in the operation of GTRMC and the quality of care and service rendered by that institution.

Initiation of Formal Board Actions--Prior to the May 29 meeting, the board of supervisors had not officially discussed the sale or lease of GTRMC to North Mississippi Health Services or any other purchaser or lessee. Subsequent to the May 29 meeting, the county's property interest in GTRMC became a primary and regular topic during supervisors' meetings, as illustrated in Exhibit 1, page 7.

Despite the proposal to merge GTRMC with North Mississippi and the board's regular discussions regarding GTRMC, the supervisors did not develop a systematic approach for determining whether the county's property interest in GTRMC should be changed. The board continued (and presently continues) to make decisions regarding GTRMC in an *ad hoc* manner with limited planning or evaluation for the current and long-term health care needs of the county. One supervisor told PEER that there has been no sense of continuity among the supervisors regarding GTRMC,

Exhibit 1

Lowndes County Board of Supervisors
Major Events Regarding GTRMC

April 6, 1992

Motion by Supervisor Brooks to adopt a resolution commending GTRMC. Motion died for lack of a second.

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May 29, 1992

Motion by Supervisor McCrary, seconded by Supervisor Willis, to merge GTRMC with North Mississippi Health Services, Inc. Motion died without a majority vote.

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June 1, 1992

Motion by Supervisor Brooks, seconded by Supervisor Colson, to table the discussion regarding the sale, merger or lease of GTRMC indefinitely. Motion adopted unanimously.

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June 25, 1992

Motion by Supervisor Colson, seconded by Supervisor Brooks, to adopt a resolution supporting the GTRMC board of trustees. Motion adopted unanimously.

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August 7, 1992

Motion by Supervisor Brooks, seconded by Supervisor Anthony, to appoint Supervisors Johnny Mack McCrary and Dwight Colson to the Golden Triangle Regional Medical Center Steering Committee. Motion adopted unanimously.

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August 24, 1992

Motion by Supervisor Colson, seconded by Supervisor McCrary, to advertise for sale or lease of GTRMC. Motion adopted unanimously.

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August 31, 1992

Request for proposal initially advertised in the *Columbus-Dispatch*. Deadline for proposals: September 30, 1992.

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September 15, 1992

Motion by Supervisor Brooks to table all GTRMC sale/lease proposals for thirty days and appoint a

six-person review committee to hold a public hearing. Motion died for lack of a majority vote.

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September 28, 1992

Supervisors receive a valuation appraisal of GTRMC from Marshall and Stevens: \$29 million for the property and \$9.5 million for equipment.

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September 30, 1992

Motion by Supervisor Brooks, seconded by Supervisor Anthony, to table all proposals received for the sale/lease of GTRMC. Motion died for lack of a majority vote.

Motion by Supervisor Brooks, seconded by Supervisor Anthony, to ask the Department of Audit, Ethics Commission and Attorney General to investigate the board's process for selling/leasing GTRMC. Motion died for lack of a majority vote.

Motion by Supervisor Brooks, seconded by Supervisor Anthony, that local groups have preference in the sale/lease of GTRMC. Motion died for lack of a majority vote.

Motion by Supervisor Brooks requesting the resignations of the board president and vice-president. Motion died for lack of a second.

Board opened proposals from thirteen interested parties. Motion by Supervisor McCrary, seconded by Supervisor Colson, to take the proposals under advisement. Motion approved unanimously.

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October 12, 1992

Motion by Supervisor Colson, seconded by Supervisor Willis, to initiate negotiations with Baptist Memorial Health Care Systems of Memphis.

Substitute motion by Supervisor Brooks, seconded by Supervisor Anthony, to table all lease/sale proposals to obtain a legal opinion regarding the proposed decision. Motion died for lack of a majority vote.

The board approved the original motion with a majority vote.

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SOURCE: PEER analysis of Lowndes County Board of Supervisors' minutes

primarily because the board's informal agenda for handling GTRMC has been set by supervisors who want the county to discontinue its involvement in GTRMC.

Because GTRMC represents a significant asset of Lowndes County (with an approximate market value of \$38.5 million) and the board of supervisors is responsible for providing an adequate health care facility for county residents, prudent management dictates that the board utilize a rational and systematic approach in discussing potential property interest changes. The board of supervisors has failed to follow such an approach primarily because of the lack of unity among supervisors as to what, if anything, should be done about GTRMC. A secondary cause for the confusion was the unsanctioned proposal to merge GTRMC with North Mississippi, which caused further division among the supervisors and community residents and diminished the board's limited efforts to make decisions rationally regarding GTRMC.

The primary effect of the board's failure to follow a systematic approach regarding a GTRMC decision is that the board's actions and decisions have been dictated generally by the public and individual supervisors' beliefs, rather than objective analysis. The board's non-cohesive approach to handling GTRMC may not result in a solution which fulfills the long-term health care needs of Lowndes County citizens.

- *The Lowndes County Board of Supervisors has no objective criteria on which to base a decision to sell or lease GTRMC.*

As stated on page 3, supervisors frequently received complaints from their constituents concerning GTRMC's operations, primarily those relating to the emergency room and ambulance service. Some supervisors thought the county should address the constituents' complaints by "getting the county out of the hospital business"--i.e., selling or leasing GTRMC. Prior to "getting the county out of the hospital business," the Lowndes County Board of Supervisors did not establish and spread on its official minutes objective criteria supporting and explaining its decision to sell or lease GTRMC.

Specific Concerns Regarding GTRMC--According to the county administrator, the supervisors based their decision to sell or lease GTRMC on the following criteria.

- Perceived reduction in GTRMC patient census;
- GTRMC monthly losses in excess of \$200,000;
- Unsatisfactorily explained relationships between health-related for-profit and not-for-profit corporations;

- Desire of some supervisors to reduce the taxpayers' financial burden;
- Need for expansion and improvement of quality of services which a large corporation could more easily undertake; and,
- Belief that a well-established larger owner might be more successful in recruiting doctors.

While the board of supervisors may have had legitimate concerns in each of these areas, the supervisors did not objectively document each of their concerns or criteria in these areas. Minutes of the board's 1992 meetings during which GTRMC was discussed contain no official statements explaining the reasons for or necessity of the board's property interest decisions relative to GTRMC.

Lack of Documented Evidence for Perceived Concerns--PEER analysis of GTRMC records shows that some of the supervisors' concerns may have been factually unfounded. For example, the supervisors cited GTRMC's declining patient census as a reason for their sell or lease decision. GTRMC patient census information for fiscal years 1990 through 1992 illustrates that the institution's patient census was relatively stable for that three-year period. Patient census during fiscal year 1992, the year during which the supervisors became concerned about GTRMC, was very similar to that of 1990 or 1991. Another reason cited by the supervisors for their decision was GTRMC's monthly losses of \$200,000. Analysis of GTRMC's statement of revenues and expenses for fiscal years 1988 through 1992 shows that GTRMC concluded each fiscal year with a net excess of revenues over expenses. The net excesses ranged from \$82,500 in FY 1989 to \$3,361,008 in FY 1990. GTRMC's net excess of revenues over expenses for FY 1992 was \$557,518. Assuming the correctness of GTRMC's audited financial records, it would have been difficult for GTRMC to experience \$200,000 monthly losses and still end the year with such a significant excess.

In three of the board's 1992 meetings during which GTRMC was discussed, a supervisor made motions which would have, in effect, required the board to delay its decision on GTRMC and document reasons for the board's necessity to make a GTRMC property interest decision. On September 15, Supervisor Leroy Brooks made a motion for the board to appoint a bi-partisan committee to hold a public hearing regarding the sale or lease of GTRMC. On October 9, Supervisor Brooks made a motion for the GTRMC trustees to perform an assessment of GTRMC within ninety days and for the county to employ a consultant to appraise GTRMC and report to the board of supervisors. On October 12, Supervisor Brooks made a motion to table the sale or lease decision and request a legal opinion regarding the legality of the board's impending decision. All of these motions received seconds but died without majority votes.

Other Counties' Actions in Lease Decisions--Even though state law does not require the establishment of specific criteria for the decision on whether to lease public hospitals, other counties have made leasing decisions based on objective criteria. For example, In its 1991 report entitled **A Review of Hospital Privatization in Mississippi and a Summary of the Lease Provisions of Methodist Medical Center and Baptist Memorial Hospital-North**, the PEER Committee reviewed the processes utilized by Hinds and Lafayette counties to lease their public hospitals. The report illustrated how both counties obtained independent advice from health care/hospital experts prior to deciding to lease their public facilities.

- Hinds County employed three different consultants over a two-year period to provide recommendations regarding the future of Hinds General Hospital. The county asked one consultant to conduct a long-range study to determine where the hospital should be in five years competitively. Another consultant was asked to determine whether Hinds General Hospital should continue to operate as a county hospital or enter into an agreement with a private firm. The county asked the final consultant to predict how the hospital would fare if it remained public and how it would fare if it were run privately. Based upon the recommendations of these reports and those of the two legal and two financial consulting firms hired by the county to assist in the process, the Hinds County Board of Supervisors, on December 22, 1989, voted to lease Hinds General Hospital to Methodist Health Systems of Memphis.
- The City of Oxford and Lafayette County jointly owned Oxford Lafayette Medical Center, now Baptist Memorial Hospital-North. The hospital's board of trustees employed TriBrook Management Consultants, a nationally recognized health care consulting firm, in January 1987 to review and evaluate services/facilities and to identify/recommend needs of the hospital. The consulting firm's 1988 report recommended immediate capital improvements of approximately \$11.1 million, with additional capital improvements needed in the future. The Oxford Mayor and Board of Aldermen and Lafayette County Board of Supervisors recognized the needed capital improvements, but were reluctant to place an \$11.1 million indebtedness on the city and county which would result in tax increases. The board of trustees decided the best way to maintain quality health and medical care to the citizens at the lowest reasonable costs was to enter into a lease agreement. The board employed two attorneys, one a nationally-recognized health care expert and the other a local attorney, to conduct lease negotiations. The board eventually entered into a lease agreement with Baptist Memorial Health Care Systems, which began operating the Oxford/Lafayette County hospital on June 1, 1989.

The board of supervisors failed to establish objective criteria for its sell or lease decision primarily because it did not follow a systematic approach in developing its decision. (See page 5.) A secondary cause was the lack of unity among supervisors relative to any GTRMC property interest decision. Most board motions regarding GTRMC either did not receive seconds, died without majority votes, or passed on 3-2 votes. The primary effect of the board's lack of criteria is that the board cannot objectively and factually defend its decision to sale or lease GTRMC. The board has no objective information with which to prove to the general public that it would be in the best economic and health care interest of Lowndes County to make property interest changes of GTRMC. While each supervisor has personal opinions as to why a GTRMC property interest decision should be made, the board has not expressed to the public through its minutes an official reason for selling or leasing GTRMC.

The Lowndes County Board of Supervisors and GTRMC Board of Trustees did not formally evaluate all proposals received for the sale or lease of GTRMC prior to selecting one proposal for further negotiation.

Advertisement and Opening of Proposals--During its August 24, 1992, meeting, the board of supervisors voted to advertise the sale or lease of GTRMC. The board, on August 31, September 7, and September 14, advertised its intentions in the classified section of the *Columbus-Dispatch*. The advertisement instructed interested purchasers or lessees to obtain from GTRMC administrators a request for proposals, which had been compiled by an ad hoc steering committee composed of two county supervisors and GTRMC representatives.

During its September 30, 1992, meeting, the board of supervisors received and opened proposals from eleven potential purchasers/lessees. (See Exhibit 2, page 12.) At the conclusion of the opening, the board voted to take the proposals under advisement. Subsequent to the September 30 meeting, board of supervisor employees provided each supervisor and each GTRMC trustee with copies of all proposals for their personal review.

Lack of Formal Work Sessions to Analyze Proposals--Representatives of the board of supervisors and board of trustees told PEER that neither board held formal work sessions to analyze the eleven proposals to determine their adherence with provisions of the RFP. The boards relied entirely on their members to analyze the proposals personally and independently to determine which was in the best interest of Lowndes County and its long-term health care needs. One GTRMC trustee, Dr. John E. Reed, resigned from the board in protest of the board's failure to evaluate all proposals. Dr. Reed stated the following in his resignation letter.

. . . I am especially concerned about the Board having solicited proposals from a number of prospective purchasers but having thereafter failed to consider any of those proposals except one

Exhibit 2

Proposals Submitted for the Lease or Sale of Golden Triangle Regional Medical Center

Organization	Type of Proposal
Adventist Health System/Sunbelt Health Care Corporation (Orlando, FL)	Purchase
Baptist Memorial Healthcare System, Inc. (Memphis, TN)	Lease or Purchase
Columbus-Lowndes Healthcare Services (Columbus, MS)	Lease or Purchase
Community Health Systems, Inc. (Houston, TX)	Lease
GTR Citizens Group (Columbus, MS)	Lease or Purchase
Epic Healthcare Services (Dallas, TX)	Purchase
Health Management Associates, Inc. (Naples, FL)	Lease or Purchase
Health Trust, Inc. (Nashville, TN)	Lease or Purchase
North Mississippi Health Services (Tupelo, MS)	Purchase
OrNda Healthcorp, Inc. (Nashville, TN)	Lease or Purchase
Southern Health Management Company (Atlanta, GA)	Lease or Purchase
Radiology Clinic (Columbus, MS) *	
Quorum Health Resources, Inc. (Nashville, TN) *	

* Radiology Clinic and Quorum Health Resources, Inc., expressed interest to the Board of Supervisors for the lease or purchase of Golden Triangle Medical Center, but did not submit proposals.

SOURCE: Minutes of the Lowndes County Board of Supervisors

which was selected for negotiation. I do not mean to imply that the selected proposal is not the best available. I simply do not know, without detailed study of the various proposals, what would be in the best interest of the hospital and community. My chief concern is that the Board of Trustees has not functioned with a sense of collective purpose so as to exchange ideas and seek a mutually desirable solution best for our community. It has seemed to me that the Board has functioned in fragmented groups and decisions have been made without the sense of collective thought that I believe necessary.

The board's request for proposal states that "Lowndes County will evaluate each candidate's proposal and may request additional and/or clarifying information in order to identify a preferred candidate." The RFP's language would lead reasonable potential purchasers or lessees to believe that the county planned to subject all proposals to some type of analytical or evaluative rigor in an attempt to select the proposal with whom the county will seriously negotiate.

*Lack of Formally Established Evaluation Process or Criteria--*The board of supervisors and GTRMC trustees failed to evaluate formally all proposals primarily because they never officially established an evaluation process or criteria. According to the Lowndes County Administrator, the board of supervisors had not established the process and criteria for evaluation of the proposals by September 30, the day the supervisors opened the proposals. The administrator stated that at the time of the proposal opening, the county was considering the following two options for evaluating the proposals.

- Allow the medical center's board of trustees and county board of supervisors to narrow the field to three top proposals. Employ a legal firm and certified public accountant to review further the three finalists and recommend the best proposal.
- Allow the medical center's board of trustees and county board of supervisors to select the best proposal from the eleven proposals received on September 30.

Unofficially the board of supervisors opted to allow the board of trustees to evaluate the proposals, without any established or formal evaluation criteria.

*Formal Board Action Concerning Proposal--*At its October 8, 1992, meeting, eight days after the board of supervisors opened the eleven proposals, the GTRMC trustees met and entertained a motion to recommend to the board of supervisors the leasing of GTRMC to Baptist Memorial Health Care System ("Baptist"). The motion died without a majority vote. At a brief special meeting held at the Lowndes County courthouse on October 12, four

days later, the trustees again entertained a motion to recommend to the board of supervisors the leasing of GTRMC to Baptist, which passed on a 4-3 vote. The trustees concluded their special meeting and joined the board of supervisors in a meeting to discuss GTRMC. During the joint meeting, the trustees made their recommendation to lease GTRMC to Baptist, which the supervisors adopted on a 3-2 vote after a brief discussion. GTRMC trustees and county supervisors told PEER that they selected the Baptist proposal primarily because of Baptist's world-wide reputation in the health care/hospital management arena and its similarity of mission with GTRMC.

The primary effect of the board of supervisors' and board of trustees' failure to evaluate formally all eleven proposals is that the county has no objective evaluation to ensure that the Baptist proposal is the best one to provide long-term health care for Lowndes County citizens. Because some proposals were for the purchase of GTRMC and others were for the leasing of GTRMC, it was imperative that the board of supervisors ensure a stringent and objective analysis of the different proposals to select the best one.

The evaluation process utilized by the supervisors and trustees did not ensure that persons or firms with financial and/or health care expertise were involved in the evaluation of the eleven proposals. PEER found no evidence that supervisors and/or trustees possessed financial and/or health care backgrounds which would have enabled them to select the best proposal on an objective or expert basis.

The evaluation process utilized by the supervisors and trustees was misleading and did not ensure that all potential purchasers or lessees were treated fairly. During the September 30 meeting, board president McCrary told those in attendance that the board of supervisors would narrow the eleven proposals to three and then obtain legal and accounting assistance to make the final selection. Because the supervisors allowed the trustees to evaluate the proposals informally and recommend only the Baptist proposal for further negotiations, the remaining ten proposals were not afforded a fair opportunity to be further considered by the board of supervisors. The boards' evaluation process was also unfair because the board of trustees may have had a predisposition to select the Baptist proposal over the other proposals. On July 9, approximately two months prior to the board of supervisors advertising its RFP, three trustees and the GTRMC administrator and attorney inspected the Baptist Memorial Hospital-North at the invitation of Baptist officials. During the August 13 trustees' meeting, the trustees president reported that the inspection group was impressed with improvements made in the Oxford hospital and with the range of services being offered by the hospital. On September 1, one day after the board of supervisors advertised its RFP, Baptist officials expressed their corporation's interest in the sale or lease of GTRMC in a meeting conducted by GTRMC medical staff. GTRMC Board of Trustees' minutes

provided to PEER do not document such direct contact between GTRMC officials and other potential purchasers/lessees.

Support Corporations' Relationships to GTRMC

Local health care supporters organized four corporations to expand community involvement in health care, particularly that provided by Golden Triangle Regional Medical Center. However, operation of the corporations is heavily influenced by GTRMC employees, thus compromising the corporations' original intent to produce greater community involvement.

From August 1985 through December 1987, local health care supporters (in conjunction with GTRMC administrators) established a foundation and three other corporations to expand community involvement in health care. Each entity enlisted the support and affiliation of influential citizens from Columbus/Lowndes County in an effort to fund and promote health care projects.

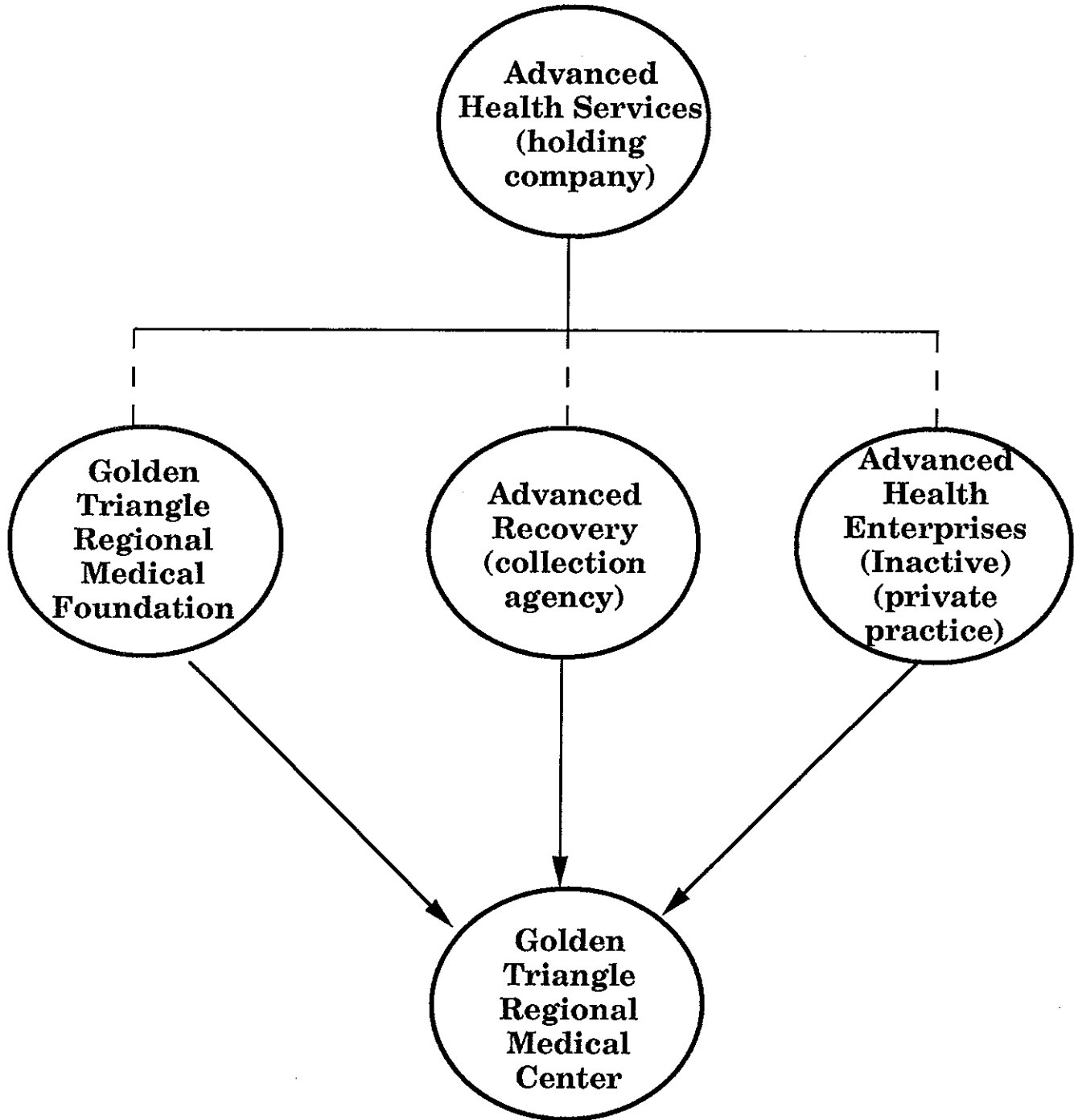
- *Local supporters established the four health-related corporations to enhance health care within the Golden Triangle region.*

According to GTRMC and corporation officials, in the mid-1980s local health care supporters began establishing not-for-profit and for-profit corporations to enhance health care within the Columbus/Lowndes County region, with GTRMC being the primary beneficiary. The corporations were initially established to provide a method by which interested individuals could receive tax advantages by contributing financially to health care efforts and projects. The GTRMC administrator told PEER that the corporations also were established as an effort to provide counterbalance to the GTRMC trustees, whose actions had been dominated primarily by four of the seven trustees during the early 1980s. The GTRMC administrator describes the corporations as a practical means for "GTRMC to continue to enjoy the benefits of public hospital status (i.e. tax support) and, at the same time and at no expense to GTRMC, to benefit from the flexibility and financial support of a private health-related corporation."

Exhibit 3, page 16, depicts the relationship of the four corporations to each other and GTRMC, and Exhibit 4, page 17, describes their purposes. Exhibit 5, page 18, lists current members of boards of directors for the corporations. Exhibit 6, page 19, details major events affecting the four entities.

Exhibit 3

**Relationship of Support Corporations With
Golden Triangle Regional Medical Center**



SOURCE: PEER analysis of document provided by Golden Triangle Regional Medical Center's Administrator

Exhibit 4

Golden Triangle Regional Medical Center's
Support Corporations

Entity	Type of Entity	Date of Incorporation	Original Incorporators	Purpose
Advanced Health Services	Not-for-Profit	1987	William E. McClure William O. Brown Aubrey E. Nichols	To promote improvement in health care by administering/assisting in the delivery of health care services and to receive and/or contribute gifts toward this purpose
Advanced Health Enterprises (Inactive)	For-Profit	1987	Lance B. Duke W. O. Lancaster, Jr. Aubrey E. Nichols	To establish, own, operate, manage, and/or otherwise engage in business related to medical or health care services, either alone or with another entity
Advanced Recovery	For-Profit	1986	Rita Douglass Larry F. Baird Lex Jackson	To conduct any activity connected with billing, collecting, buying, selling and dealing in current and delinquent accounts
Golden Triangle Regional Medical Foundation	Not-for-Profit	1985	Robert S. Jones William E. McClure Shields Sims	To promote improvement in health care by administering/assisting in the delivery of health care services and to receive and/or contribute gifts toward this purpose

SOURCE: PEER analysis of Secretary of State's documents

Exhibit 5

Directors of GTRMC's Support Corporations
As of September 24, 1992

Advanced Health Services

Ms. Sandra Sanderson, President
Dr. Thomas Adams, Vice President
Dr. Ed Morris, Secretary
Mr. A. Puckett

Mr. Bill McClure
*Mr. Aubrey Nichols **
Mr. Johnny Johnson
Dr. Ben Martin

Advanced Recovery, Inc.

Mr. Lex Jackson, President
Ms. Rita Douglass, Vice President
Dr. Brad Brown
Mr. James Conard

Advanced Health Enterprises

Dr. Thomas Vinson, President
Dr. A. R. Dill, Vice President
Mr. Fred Jones, Secretary/Treasurer

GTRMC Foundation

Mr. Bobby Harper, President
Mr. Johnny Johnson, Vice President
Mr. Charles Faulkner, Secretary
Ms. Doris Ebner, Treasurer
Ms. Jeannette Adams
Dr. G. S. Barnes
Ms. Delores Belhumer
Ms. Allegra Brigham
Ms. Betty Jean Dowdle
Dr. John Harrington
Mr. Lex Jackson

Mr. Bill McClure
Mr. Robert Jones
Mr. Bill McBride
Mr. Art Nester
Ms. Peggy Pitts
Mr. S. B. Platt, III
Mr. Allen Puckett, III
Ms. Kathy Reed
Ms. Cindy Rood
Mr. Shields Sims
Mr. Tom Wolford

* Italicized names denote current and/or former GTRMC employees or contractors.

SOURCE: Golden Triangle Regional Medical Center Administrator

Exhibit 6

**GTRMC Support Corporations
Major Events Regarding Formation**

September 26, 1985

Golden Triangle Regional Medical Foundation created by Columbus/Lowndes County individuals interested in health care.

.....

December 12, 1985

GTRMC Board of Trustees endorses the formation of a collection agency as a subsidiary of the foundation.

.....

January 30, 1986

Foundation directors agree to form a not-for-profit collection agency as a subsidiary corporation of the foundation.

.....

April 18, 1986

Advanced Recovery, Incorporated (ARI) approved by the Secretary of State. ARI is a subsidiary of the GTRMC foundation.

.....

May 1, 1986

ARI entered into a collection agreement with GTRMC.

.....

November 2, 1987

To protect the not-for-profit status of the foundation and the foundation-owned companies, the foundation formed a holding company, named *Advanced Health Services, Incorporated*, to hold the foundation's shares of for-profit businesses.

.....

December 7, 1987

Advanced Health Enterprises created as a joint venture between AHS and GTRMC.

.....

January 26, 1988

Foundation agrees to sell its *Advanced Recovery, Inc.* stock to *Advanced Health Services* provided that ARI is granted not-for-profit status and at least one-third of AHS's board consists of foundation directors. *Advanced Health Services* purchases the stock of *Advanced Health Enterprises*.

.....

January 24, 1989

GTRMC Foundation directors learn that their application for a not-for-profit tax status was favorable. ARI's application for a not-for-profit tax status was unfavorable.

.....

January 17, 1991

AHE dissolved as a limited partnership.

.....

October 8, 1992

GTRMC trustees voted to handle the medical center's collections in-house, effectively cancelling its contract with ARI.

.....

SOURCE: PEER analysis of corporation records.

The sections below briefly explain the origin of the four corporations:

Golden Triangle Regional Medical Foundation

Beginning in 1982, the GTRMC Board of Trustees discussed the creation of a foundation "for the purpose of raising and accumulating gifts and donations to the hospital for future capital needs." The foundation organization efforts culminated on May 8, 1985, with the trustees agreeing to sponsor a luncheon for twenty-seven Columbus-area individuals identified by the trustees as possible candidates for forming a foundation. The trustees held the foundation's organizational meeting on August 15, 1985. Participants in the foundation's original planning meetings obtained advice and input from GTRMC administrators and representatives of a Birmingham, Alabama, hospital which operated a large foundation. At a meeting on September 26, 1985, foundation participants voted to file an application with the Secretary of State for a charter as a non-profit corporation of the State of Mississippi, which the Secretary of State approved on November 6, 1985.

Since its creation, the Golden Triangle Regional Medical Foundation has funded projects such as nursing scholarships, Camp Rising Sun cancer camp for children, GTRMC chaplaincy program and an annual medical fundraising banquet.

Advanced Recovery, Inc. (ARI)

During a January 30, 1986, meeting, the GTRMC administrator told the foundation directors that GTRMC had an interest in the foundation forming a collection agency. The administrator pledged GTRMC's use of the collection agency if one was formed by the foundation. The foundation directors approved a motion to form a not-for-profit collection agency as a subsidiary corporation of the foundation. During the foundation's next meeting on April 24, 1986, the GTRMC administrator announced to the foundation directors that a for-profit collection agency had been formed and named Advanced Recovery, Incorporated (ARI). The foundation directors approved a motion to transfer \$1,000 from its checking account to capitalize ARI. The foundation later sold its ARI stock to Advanced Health Services, which removed the foundation from the collections business.

Immediately after its creation, ARI entered into a collections agreement with GTRMC, which requires the medical center to pay a contingency fee of 33 1/3% of all collections. The agreement requires GTRMC to pay 50% of all collections on accounts which require some type of legal action. The agreement provides that ARI, quarterly or at the end of each fiscal year, may rebate to GTRMC a sum to be determined by ARI based on placements and recoveries. For the period May 1, 1986, through September 30, 1992, GTRMC referred \$24.3 million worth of accounts to ARI for collection. Because of negative public perceptions regarding GTRMC's

relationship with ARI, GTRMC trustees voted on October 8, 1992, to "handle the medical center's collections in-house," effectively cancelling the contract with ARI.

Since its creation, ARI has functioned as GTRMC's external collection agency, purchased an office complex and other real estate, become involved in managing physician practices and other joint ventures, and funded entertainment for the foundation's annual medical fundraising banquet.

Advanced Health Services, Inc. (AHS)

During the foundation's October 27, 1987, meeting, the directors took the advice of the foundation's certified public accountant and voted to create a holding company to protect the foundation's not-for-profit tax status and hold the foundation's shares of for-profit businesses, primarily ARI. AHS eventually became the parent organization of ARI and AHE by acquiring their stock and became responsible for pre-approving all appointees to the foundation's board of directors.

Advanced Health Enterprises, Inc. (AHE)

AHE began on December 7, 1987, primarily as a joint venture with a group of Columbus-area orthopaedics specialists, with GTRMC leasing space, equipment, and employees to AHE. During an October 9, 1990, meeting, Aubrey Nichols, GTRMC trustees' attorney, told the AHE board of directors of legal concerns of GTRMC leasing employees to AHE. On January 17, 1991, the AHE board of directors approved a motion to dissolve the partnership.

- *GTRMC employees have been heavily involved in the operation of the corporations from their inception, resulting in corporation officers knowing very little about their own corporations' actual operations and activities.*

During the entrance conference for this review, the GTRMC administrator told PEER that the foundation and its related corporations were not connected in any way with GTRMC. He described the corporations as having "arm's-length" relationships with GTRMC by functioning as stand-alone entities designed to benefit health care in general and GTRMC in particular.

Through interviews with GTRMC administrators and corporation directors, PEER determined that GTRMC does not have arm's-length relationships with the corporations. In fact, GTRMC administrators and employees have been heavily involved in the operation of the corporations

from their inception. This involvement has resulted in corporate directors, those individuals legally responsible for the corporations, knowing very little about their own corporations' actual operations and activities. The following sections illustrate the involvement of GTRMC administrators in corporation activities.

Golden Triangle Regional Medical Foundation: *The Foundation*

- Bobby Harper, president of the Columbus branch of National Bank of Commerce, was named as a foundation director during its January 30, 1986, meeting. Harper describes his current role as foundation president as being a moderator, with GTRMC administrators setting and compiling agendas for the foundation's quarterly and called meetings. Harper said that GTRMC administrators and employees handle the foundation's administrative tasks and maintain the foundation's accounting records. He noted that William Lancaster, GTRMC Assistant Administrator for General Services, serves as the foundation's "point man" at GTRMC.
- According to the foundation's corporate charter, the foundation's domicile address is the same as GTRMC's, 2520 Fifth Street North, Columbus, Mississippi.
- During the foundation's January 30, 1986, meeting, those in attendance elected Charles Faulkner, GTRMC Administrator, as secretary and director of the corporation. Foundation directors also named Faulkner as resident agent for the corporation. Faulkner continues to serve as foundation secretary.
- For the period January 30, 1986, through August 3, 1992, foundation minutes reflect that Faulkner and Lancaster attended and participated in twenty-three (92%) and twenty-two (88%), of the foundation's twenty-five quarterly meetings, respectively.
- Faulkner told PEER that he writes and signs checks on behalf of the foundation (even though foundation directors elected Doris Ebner to serve as foundation treasurer on January 28, 1992). The foundation's bylaws clearly state that the corporation's treasurer, not the GTRMC administrator, shall be responsible for expending foundation funds.

Advanced Recovery, Inc. (ARI): *The Collection Agency*

- During the foundation's January 30, 1986, meeting, the board of directors directed Charles Faulkner, GTRMC

Administrator, to "take whatever steps were necessary" to implement the foundation's decision to establish a collection agency.

- Larry Baird, current GTRMC Assistant Administrator for Finance, and Rita Douglass, former GTRMC accounts service employee, organized ARI on May 1, 1986, with Baird being selected as president and treasurer and Douglass being selected as vice-president and secretary. Baird no longer holds an office within ARI but continues to serve as a signatory on ARI's savings account. Douglass currently serves as ARI's general manager.
- The original collections agreement between ARI and GTRMC was signed by Larry Baird on behalf of ARI and his immediate supervisor, Charles Faulkner, on behalf of GTRMC.
- Lex Jackson, manager of Reed's Department Store in Columbus, was named as an ARI director during the corporation's second meeting on October 23, 1986. Jackson describes his current role as ARI president as being a "sounding board" and "business presence" for ARI matters. Jackson acknowledged to PEER that he does not know "a lot" about ARI's operations, leaving those matters to Rita Douglass. He noted that the board of directors provides cursory approval of ARI's financial statements during its quarterly meetings. Jackson also stated that he does not have "a clue" as to how ARI computes the annual rebate it provides to GTRMC.
- Rita Douglass told PEER that she has been associated with ARI "from day one." Douglass said that Charles Faulkner and William Lancaster, GTRMC Assistant Administrator for General Services, asked her to serve as an original incorporator of ARI. Douglass acknowledged that "Charlie or Bill" will frequently make her aware of GTRMC requests which need to be funded and she acts accordingly by providing the funds.

Douglass acknowledged that ARI does not have a formula for computing the amount to provide to GTRMC each year as a rebate, even though ARI's agreement with GTRMC states that the rebate is to be based on "placements and recoveries." She stated that she "talks to Charlie or Larry [Baird]" and they tell her how much GTRMC needs as a rebate each year.

Douglass was not aware as to how Advanced Health Services, Inc., functions as ARI's parent corporation. She also professed no knowledge as to how ARI's net income is

distributed for health care purposes, either through AHS or the foundation.

In summary, Douglass told PEER that everything she does as ARI general manager is done at the direction of "the hospital," i.e., "Charlie, Larry and Bill."

- For the period June 1986 to March 1992, ARI employees were members of GTRMC's self-funded insurance program.
- As illustrated in Exhibit 7, page 25, ARI has purchased items of value, such as vehicles, on behalf of GTRMC.

Advanced Health Services, Inc. (AHS): *The Parent Corporation*

- Sandra Sanderson, president of Sanderson Plumbing Products, was named as an AHS director during its organizational meeting on January 21, 1988. Sanderson, who currently serves as AHS president, said that Charles Faulkner, GTRMC Administrator, and Aubrey Nichols, GTRMC trustees' attorney, asked her to become involved with AHS. Sanderson describes her role as AHS president as being a "figurehead" only, with William Lancaster, GTRMC Assistant Administrator for General Services, scheduling AHS's quarterly meetings and compiling agendas for the meetings. Faulkner and Lancaster answer questions on Sanderson's behalf during the quarterly meetings.

Sanderson describes AHS's quarterly meetings as primarily social events with limited discussion regarding AHS or Advanced Recovery, Inc. (ARI) and Advanced Health Enterprises, Inc. (AHE), its two subsidiaries. Sanderson acknowledged that she has little knowledge as to who directs the activities of AHS's two subsidiaries.

In summary, Sanderson told PEER that Faulkner and Lancaster have been associated with AHS "from the very beginning."

- During AHS's organizational meeting on January 21, 1988, Faulkner, as the second order of business, led a discussion regarding the role and objectives of Advanced Health Services, Inc. Immediately after this discussion, those in attendance elected Faulkner as secretary/treasurer and director of the corporation, offices which he occupied until October 18, 1989. (Aubrey Nichols, GTRMC trustees' attorney and AHS board member, informed the directors of legal implications of GTRMC employees serving on AHS's board and its subsidiaries. After his resignation as secretary/treasurer,

Exhibit 7

**Selected Purchases by Advanced Recovery, Inc.
for Golden Triangle Regional Medical Center**

Date	Payee	Amount	Purpose
5/31/90	Marketing Professionals, Inc.	\$7,051.80	Awards for 1990 GTRMC Employee Banquet
5/28/91	Marketing Professionals, Inc.	3,661.36	Awards for 1991 GTRMC Employee Banquet
8/28/91	Mississippi Filing Systems	28,964.50	Micro-Optical Disc Reader-Printer
9/10/91	Doughty Brothers, Inc.	11,592.32	Lighting for GTRMC Walking Track
12/26/91	Fields Child Care, Inc.	17,000.00	Equipment for GTRMC/MUW Child Care Center
1/3/92	Mississippi Filing Systems	19,149.96	Micro-Optical Disc Reader-Printer
4/10/92	Mississippi Filing Systems	14,781.70	Computer Equipment for Medical Records
4/29/92	Starkville Ford Mercury	7,868.00	Van
5/6/92	Twin Rivers Auto Sales	4,542.00	Truck
6/15/92	Wren Body Works	1,578.25	Bed Liner for Truck

NOTE: All of these purchases would have been subject to state purchasing laws if they had been made by GTRMC.

SOURCE: Advanced Recovery, Inc., Records

Faulkner continued attending AHS meetings as a non-voting member.)

- For the period January 21, 1988, through, July 22, 1992, AHS minutes reflect that Faulkner attended and participated in twelve of AHS's thirteen meetings (92%) and Lancaster attended and participated in all of AHS's thirteen meetings (100%).
- During its October 18, 1989, meeting, the AHS board authorized Lancaster to execute checks on behalf of AHS. (Lancaster presently continues to write checks on behalf of AHS as well as maintain the corporation's accounting records.)
- During its April 27, 1989, meeting, the AHS board named Faulkner chairman of nominating committees to select AHS officers and directors.

Advanced Health Enterprises, Inc. (AHE): *The Joint Venture*

- During AHE's April 27, 1988, meeting, those in attendance selected Bill Lancaster, GTRMC Assistant Administrator for General Services, as president and Lance Duke, GTRMC Assistant Administrator for Patient Care Services, as secretary/treasurer.
- For the period April 27, 1988, through, July 16, 1991, AHE minutes reflect that Faulkner and Lancaster attended and participated in ten (91%) and eleven (100%), of AHE's eleven regular meetings, respectively.
- During its January 24, 1990, meeting, the AHE board authorized Lancaster to execute checks on behalf of AHE.

State corporate law anticipates that a corporation's board of directors, those individuals legally responsible for the operations of a corporation, will direct activities of and make decisions on behalf of the entity.

GTRMC administrators and employees became heavily involved in the operations of AHS, the foundation, ARI, and AHE either because the GTRMC trustees were not fully and officially informed of their involvement or GTRMC trustees were informed and chose not to interfere with such involvement. GTRMC trustees' minutes reviewed by PEER do not illustrate that the trustees were kept abreast of the degree of involvement of GTRMC personnel in the support organizations.

The involvement of GTRMC personnel in the support corporations has had three primary effects:

- *Administrators influence community health care policy and decisions which may directly affect them in their positions--* GTRMC administrators, specifically Charles Faulkner and William Lancaster, have provided a "guiding hand" over the support corporations by influencing formal and informal decisions made by the corporations.
- *GTRMC, a public hospital, in effect is able to circumvent state purchasing laws--*The existence of the support corporations has allowed GTRMC administrators to circumvent state purchasing laws by having ARI purchase items on behalf of GTRMC. According to Rita Douglass, Charles Faulkner and William Lancaster make her aware of GTRMC's needs, some of which include vehicles and equipment. (See Exhibit 7, page 25.) If GTRMC administrators had made the purchases listed in Exhibit 7, they would have had to adhere to state purchasing laws, which were not applicable to ARI.
- *Community involvement in local health care policy decisions is reduced--*The original goal of each support corporation to expand community involvement in health care has been diminished and compromised. Even though these corporations are publicly supported and directed by influential individuals, the role of GTRMC administrators in the operations of the entities makes their influence questionable and debatable.
- *Board of Trustees involvement is diminished--*The involvement of GTRMC personnel in the support corporations has also diminished the GTRMC Board of Trustees' ability to manage and control medical center activities effectively and make financial decisions on behalf of GTRMC. For example, trustees' minutes do not reflect that GTRMC administrators made the board aware of ARI's purchase of equipment on behalf of GTRMC. Had GTRMC made the equipment purchases, the board of trustees would have been knowledgeable of the purchases and possibly approved them in advance.

Recommendations

1. The Lowndes County Board of Supervisors should consider suspending lease negotiations with Baptist Memorial Health Care Systems in order to employ a nationally recognized health care consultant (or consulting firm) to study and analyze thoroughly GTRMC's financial and operational potential.
2. The Golden Triangle Regional Medical Center Board of Trustees should direct its staff to cease immediately the practice of providing administrative assistance, accounting services, and account management services to any and all not-for-profit or profit-making private firms which were established to foster greater community involvement in health care. Such entities should be required to employ their own staffs, with absolutely no reliance on GTRMC staff.
3. The Legislature should amend MISS. CODE ANN. Section 41-13-15 (1972) to require that, prior to making a decision to lease a community hospital, the owners shall conduct a thorough and complete study of the hospital and its operations. Such study should include, but not be limited to:
 - a review of the community's inpatient current and future facility needs, based on current workload, historical trends/projections, and demographic data;
 - a review of the competitive market for health care services, including service delivery and market share of other hospitals which serve the same area;
 - a review of the hospital's operational and financial strengths relative to its competition and its capacity to compete in the future;
 - an economic impact analysis of a potential ownership change; and,
 - an analysis of the hospital's future options, including service mix and pricing strategies. (If the study concludes that a sale or lease should occur, the study should include an analysis of which option would be best for the community, and how much revenue should be derived from the lease or sale.)

(See Appendix B, page 36, for proposed legislation.)
4. The Legislature should amend MISS. CODE ANN. Section 41-13-15 (1972) to require that any owner planning to lease or sell a hospital issue a request for proposals. Such a document should outline what the owner is planning to do, provide any terms with which the

respondent must comply, and provide complete and correct assurances regarding the equity and fairness to be extended to all respondents. State law should also require the owner to have all proposals reviewed by competent, independent professionals prior to selecting a proposal for sale or lease. (See Appendix B, page 36, for proposed legislation.)

5. The Legislature should amend MISS. CODE ANN. Section 41-15-35 (1972) to require that, prior to accepting any money or item of value from a not-for-profit or for-profit firm, the trustees of a community hospital vote on such acceptance. Any vote in which fewer than two-thirds of the trustees vote for acceptance of a gift of money or other thing of value shall constitute a rejection of the gift or grant. (See Appendix B, page 36, for proposed legislation.)
6. The Legislature should amend MISS. CODE ANN. Section 41-13-35 (1972) to prohibit employees and members of community hospital boards of trustees from creating, attempting to create, encouraging the creation of, or ratifying the creation of, any not-for-profit or for-profit organization which, regardless of its stated purpose of incorporation, provides assistance in the form of grants of money or property to community hospitals, or provides services to community hospitals in the form of performance of functions normally associated with the operations of a hospital. (See Appendix B, page 36, for proposed legislation.)
7. The Legislature should amend MISS. CODE ANN. Section 25-41-3 (a) (1972) to revise the definition of "public body" so as to include community hospital boards of trustees within the definition of public body for purposes of the open meetings law (MISS. CODE ANN. Section 25-41-1 et seq.).

Attorney General's Opinions Regarding Sale of
Public Hospitals

STATE OF MISSISSIPPI



MIKE MOORE
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL

OFFICIAL ATTORNEY GENERAL'S OPINION

November 4, 1992

Mr. Leroy Brooks
Supervisor District Five
P.O. Box 1364
Columbus, Mississippi 39703

Re: Disposition of Proceeds
from Sale of Community Hospital

Dear Mr. Brooks:

Attorney General Mike Moore assigned your September 3, 1992 request for an Attorney General's opinion to me for response. The official opinion was sent to you on October 9, 1992 (copy enclosed).

Your two-part question was as follows:

"1. May the proceeds from the sale of a Community Hospital be used by the Lowndes County Board of Supervisors as part of its general funds, road maintenance funds or its bridge and culvert funds?

"2. If not, are these proceeds to be used for health related purposes?"

Part of the October 9 response quoted Section 41-13-15(7) as it read prior to the 1992 amendments. After the 1992 amendment, the relevant part now reads

"Until January 1, 1993, owners may sell and convey all property, real or personal, comprising a hospital facility or a facility which has filed a petition for relief under the Bankruptcy Code (Title 11 of the United States Code) prior to March 13, 1990, to a corporation operating or which will operate such facility on a nonprofit basis."

It has been suggested that the proper interpretation of the above language authorizes the sale of all community hospitals to corporations which will operate the facility on a nonprofit basis. However on close analysis, such an interpretation would render as surplusage the language authorizing such a sale of certain bankrupt facilities. In our effort to resolve legislative intent we note that the title to the act amending Section 41-13-15, Chapter 551, Miss. Laws of 1992, states

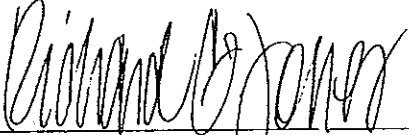
"AN ACT TO AMEND SECTION 41-13-15, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL JANUARY 1, 1993, THE AUTHORITY OF GOVERNMENTAL ENTITIES TO CONVEY CERTAIN COMMUNITY HOSPITAL FACILITIES TO A NONPROFIT CORPORATION . . ." (Emphasis added)

Clearly, the above language indicates that the legislature intended to authorize the sale only of certain community hospitals, rather than all. Therefore, the conclusions stated in the October 9, 1992 opinion stand. However, that opinion is hereby revised to reflect the amended code section as set out hereinabove.

Sincerely,

MIKE MOORE
ATTORNEY GENERAL

BY:



RICHARD G. JONES
Special Assistant Attorney General

STATE OF MISSISSIPPI



OFFICE OF THE ATTORNEY GENERAL

OFFICIAL ATTORNEY GENERAL'S OPINION

MIKE MOORE
ATTORNEY GENERAL

October 9, 1992

Mr. Leroy Brooks
Supervisor District Five
P.O. Box 1364
Columbus, Mississippi 39703

Re: Disposition of Proceeds
from Sale of Community Hospital

Dear Mr. Brooks:

Attorney General Mike Moore has received your request for an Attorney General's Opinion and has assigned it to me for response.

Your two-part question is as follows:

"1. May the proceeds from the sale of a Community Hospital be used by the Lowndes County Board of Supervisors as part of its general funds, road maintenance funds or its bridge and culvert funds?

"2. If not, are these proceeds to be used for health related purposes?"

Before the use of such funds can be addressed, it must be determined under what circumstances the board is authorized to convey ownership of a community hospital.

Mississippi Code Annotated Section 41-13-15 (3) clearly allows the board to sell "an existing health facility" to "the other entities." These entities are defined as a subordinate political or judicial subdivision, the board of trustees of a community hospital and/or any agency of the State of Mississippi or the United States Government with whom the board has entered into a contract for the purpose of establishing, operating or maintaining the hospital. Section 41-13-15 (6) also allows such sale between

Mr. Leroy Brooks
October 9, 1992
Page 2

owners of the hospital. Generally, no conveyance of a community hospital is permitted unless the parties to the transaction are those set out in this statute. The single exception, effective

until January 1, 1993, would allow the sale of such property if the board has filed a petition for relief under Title 11 of the United States Bankruptcy Code prior to March 13, 1990. In that case, the purchaser of the property must be "a corporation operating or which will operate such facility on a nonprofit basis." [41-13-15 (7)].

Mississippi Code Annotated Section 27-105-365 generally controls deposits of community hospital funds. This section permits, among other things, the creation of one or more special funds for the purpose of maintaining the hospital, purchasing hospital equipment, or other special hospital needs.

However, since your question involves the outright sale of a hospital, the above section would not apply because it contemplates disposition of funds received while the hospital remains in the possession of the current owners -- the board of supervisors in this instance -- and continues to function as a going concern under such ownership.

Thus, conveyance of the hospital would produce funds which could not be used for the day-to-day operational benefit of a hospital no longer operating under the ownership of the board, and therefore these funds would be classified as "surplus." Mississippi Code Annotated Section 27-105-367 (1) provides that

"The board of supervisors and municipal governing authorities, by order spread on their minutes, may transfer any balance remaining in a special fund in the treasury of the county or municipality, as the case may be, to the general fund to be used for general purposes for the succeeding fiscal year if the purpose for which the special fund was created has been fully carried out."

This section also sets out certain public notice requirements which must be met before such funds may be transferred out of the special fund [27-105-367 (2)(a) and (b)].

The "special" fund must be created for a purpose consistent with the general object of this section, i.e., it must be hospital-related. For example, the funds may be used to pay any debts or

Mr. Leroy Brooks
October 9, 1992
Page 3

other liabilities having accrued to it during the board's ownership period. Once this purpose is accomplished, the board may commence the "surplus" fund transfer procedure.

If this office can be of any further assistance to you in this matter, please contact us.

Sincerely,

MIKE MOORE
ATTORNEY GENERAL

BY: 

RICHARD G. JONES
Special Assistant Attorney General

Appendix B

**Proposed Legislation Regarding Leasing of
Public Hospitals**

Mississippi Legislature

Regular Session, 1993

BY:

BILL

AN ACT TO AMEND SECTION 41-13-15, MISSISSIPPI CODE OF 1972, TO REQUIRE THE OWNERS OF ANY COMMUNITY HOSPITAL TO SECURE CERTAIN PROFESSIONAL ASSISTANCE BEFORE THEY LEASE A COMMUNITY HOSPITAL OR HEALTH FACILITY AND TO REQUIRE THE OWNERS OF SAME TO ISSUE REQUESTS FOR PROPOSALS IN THE EVENT THEY DECIDE TO LEASE A HOSPITAL OR HEALTH FACILITY; TO AMEND SECTION 41-13-35, MISSISSIPPI CODE OF 1972 TO PREVENT THE TRUSTEES OF ANY COMMUNITY HOSPITAL FROM ACCEPTING ANY GRANT OF MONEY OR OTHER THING OF VALUE FROM ANY NOT-FOR-PROFIT OR FOR-PROFIT FIRM ESTABLISHED FOR THE PURPOSE OF SUPPORTING COMMUNITY HEALTH CARE UNLESS SUCH ACCEPTANCE BE MADE BY A VOTE OF TWO THIRDS OR MORE OF THE TRUSTEES; AND TO PREVENT THE TRUSTEES, AN INDIVIDUAL TRUSTEE, OR AN AGENT OR SERVANT OF THE TRUSTEES FROM CREATING, ATTEMPTING TO CREATE, ENCOURAGING THE CREATION OF, OR RATIFYING THE CREATION OF, ANY NOT-FOR-PROFIT OR FOR-PROFIT ORGANIZATION WHICH MAKES GRANTS OF MONEY OR OTHER THINGS OF VALUE, OR RENDERS SERVICES TO COMMUNITY HOSPITALS; AND FOR RELATED PURPOSES.

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

Section 1. Section 41-13-15, Mississippi Code of 1972, is amended as follows:

§ 41-13-15.

(1) Any county and/or any political or judicial subdivision of a county and/or any municipality of the State of Mississippi, acting individually or jointly, may acquire and hold real estate for a community hospital either recognized and/or licensed as such by either the State of Mississippi or the United States government, and may, after complying with applicable health planning and licensure statutes, construct a community hospital thereon and/or appropriate funds according to the provisions of this chapter for the construction, remodeling, maintaining, equipping, furnishing and expansion of such facilities by the board of trustees upon such real estate.

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

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

(4) Owners and boards of trustees, acting jointly or severally, may acquire and hold real estate for offices for physicians and other health care practitioners and related health care or support facilities, provided that any contract for the purchase of real property must be ratified by the owner, and may thereon construct and equip, maintain and remodel or expand such offices and related facilities, and the board of trustees may lease same to members of the hospital staff or others at a rate deemed to be in the best interest of the community hospital.

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

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

(7) Owners may lease community hospitals, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership, corporation, other owner or board of trustees operating on a nonprofit basis for a term not exceeding fifty (50) years, conditioned upon (a) the leased facility continuing to operate on a nonprofit basis in a manner safeguarding community health interests; (b) proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the lease shall cover any indebtedness pursuant to Section 41-13-19; (c) surplus proceeds from the lease being used for health-related purposes; and (d) subject to the express approval of the board of trustees of the community hospital.

If the approval of the board of trustees is not given within thirty (30) days of the request for its approval by the owner, then the owner may enter such lease as described herein on the following conditions: A resolution by the owner describing its intention to enter such lease shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the lease of the community hospital and the last publication shall be made not more than seven (7) days

prior to such date. If, on or prior to the date fixed in such resolution for the lease of the community hospital, there shall be filed with the clerk of the owner a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of such owner, requesting that an election be called and held on the question of the lease of the community hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. In such case, no such lease shall be entered into unless authorized by the affirmative vote of the majority of the qualified voters of such owner who vote on the proposition at such election. Notice of such election shall be given by publication in like manner as hereinabove provided for the publication of the initial resolution. Such election shall be conducted and the return thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in such owner. If, on or prior to the date fixed in the owner's resolution for the lease of the community hospital, no such petition as described above is filed with the clerk of the owner, then the owner may proceed with the lease subject to the other requirements of this section. Subject to the above conditions, the lease agreement covering the leased facilities shall be upon such terms and conditions as may be agreed upon and may make such provision for transfers of tangible and intangible personal property and operating funds and/ or for the assumption of liabilities of the community hospital and for such lease payments, all as may be deemed appropriate by the owners.

Until January 1, 1993, owners may sell and convey all property, real or personal, comprising a hospital facility or a facility which has filed a petition for relief under the Bankruptcy Code (Title 11 of the United States Code) prior to March 13, 1990, to a corporation operating or which will operate such facility on a nonprofit basis. Such sale and conveyance shall be upon such terms and conditions as may be agreed upon by the owner and the purchaser and the parties may make such provisions for the transfer of operating funds or for the assumption of liabilities of the facility, or both, as they deem appropriate. The proceeds from such sale may be invested by the owner in the manner provided by law for the investment of surplus funds or at the option of the owner may be used to purchase an annuity contract providing periodic payments to the owner from an insurance company qualified to do business in the State of Mississippi.

(8) Whenever any owner decides that it may be in its best interests to lease a community hospital as provided for under subsection 7 of this section, the owner shall first contract with competent professional health care or management consultants to review the current operating condition of the hospital or health facility. The review shall consist of, at minimum:

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

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

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

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

(9) Subsequent to the analysis required under subsection 8 of this section, an owner may choose to lease a hospital or health facility. In the event that an owner chooses to make such a lease, it shall first spread upon its minutes why such a lease is in the best interests of the persons living in the area served by the facility to be leased, and it shall make public any and all findings and recommendations made in the review required under subsection 8 of this section. The owner shall then issue a request for proposals which shall clearly state the minimum required terms of all respondents and shall further state clearly what evaluation process will be used when the owner reviews the proposals. In no case may the owner deviate from the process provided for in the request for proposals.

Section 2. Section 41-13-35, Mississippi Code of 1972, is amended as follows:

§ 41-13-35.

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

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

(3) The board of trustees shall be responsible for governing the community hospital under its control and shall make and enforce staff and hospital bylaws and/or rules and regulations necessary for the administration, government, maintenance and/or expansion of such hospitals. The board of trustees shall keep minutes of its official business and shall comply with Section 41-9-68, Mississippi Code of 1972.

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

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

- (a) To deposit and invest funds of the community hospital in accordance with Section 27-105-365, Mississippi Code of 1972;
- (b) To establish such equitable wage and salary programs and other employment benefits as may be deemed expedient or proper, and in so doing, to expend reasonable funds for such employee salary and benefits. Allowable employee programs shall specifically include but not be limited to, medical benefit, life, accidental death and dismemberment, disability, retirement and other employee coverage plans. The hospital may offer and fund such programs directly or by contract with any third party and shall be authorized to take all actions necessary to implement, administer and operate such plans, including payroll deductions for such plans;
- (c) To authorize employees to attend and to pay actual expenses incurred by employees while engaged in hospital business or in attending recognized educational or professional meetings;
- (d) To enter into loan or scholarship agreements with employees or students to provide educational assistance where such student or employee agrees to work for a stipulated period of time for the hospital;
- (e) To devise and implement employee incentive programs;
- (f) To recruit and financially assist physicians and other health care practitioners in establishing, or relocating practices within the service area of the community hospital including, without limitation, direct and indirect financial assistance, loan agreements, agreements guaranteeing minimum incomes for a stipulated period from opening of the practice and providing free office space or reduced rental rates for office space where such recruitment would directly benefit the community hospital and/or the health and welfare of the citizens of the service area;
- (g) To contract by way of lease, lease-purchase or otherwise, with any agency, department or other office of government or any individual, partnership, corporation, owner, other board of trustees, or other health care facility, for the providing of property, equipment or services by or to the community hospital or other entity or regarding any facet of the construction, management, funding or operation of the community hospital or any division or department thereof, or any related activity, including, without limitation, shared management expertise or employee insurance and retirement programs, and to terminate said contracts when deemed in the best interests of the community hospital;
- (h) To file suit on behalf of the community hospital to enforce any right or claims accruing to the hospital and to defend and/or settle claims against the community hospital and/or its board of trustees;
- (i) To sell or otherwise dispose of any chattel property of the community hospital by any method deemed appropriate by the board where such disposition is consistent with the hospital purposes or where such property is deemed by the board to be surplus or otherwise unneeded;
- (j) To let contracts for the construction, remodeling, expansion or acquisition, by lease or purchase, of hospital or health care facili-

ties, including real property, within the service area for community hospital purposes where such may be done with operational funds without encumbering the general funds of the county or municipality, provided that any contract for the purchase of real property must be ratified by the owner;

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

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

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

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

(o) To establish and operate medical offices, child care centers, wellness or fitness centers and other facilities and programs which the board determines are appropriate in the operation of a community hospital for the benefit of its employees, personnel and/or medical staff which shall be operated as an integral part of the hospital and which may, in the direction of the board of trustees, be offered to the general public. If such programs are not established in existing facilities or constructed on real estate previously acquired by the owners, the board of trustees shall also have authority to acquire, by lease or purchase, such facilities and real property within the service area, whether or not adjacent to existing facilities, provided that any contract for the purchase of real property shall be ratified

by the owner. The trustees shall lease any such medical offices to members of the medical staff at rates deemed appropriate and may, in its discretion, establish rates to be paid for the use of other facilities or programs by its employees or personnel or members of the public whom the trustees may determine may properly use such other facilities or programs;

- (p) Provide, at its discretion, ambulance service and/or to contract with any third party, public or private, for the providing of such service;
- (q) Establish a fair and equitable system for the billing of patients for care or users of services received through the community hospital, which in the exercise of the board of trustees' prudent fiscal discretion, may allow for rates to be classified according to the potential usage by an identified group or groups of patients of the community hospital's services and may allow for standard discounts where the discount is designed to reduce the operating costs or increase the revenues of the community hospital. Such billing system may also allow for the payment of charges by means of a credit card or similar device and allow for payment of administrative fees as may be regularly imposed by a banking institution or other credit service organization for the use of such cards;
- (r) To establish as an organizational part of the hospital or to aid in establishing as a separate entity from the hospital, hospital auxiliaries designed to aid the hospital, its patients, and/or families and visitors of patients, and when the auxiliary is established as a separate entity from the hospital, the board of trustees may cooperate with the auxiliary in its operations as the board of trustees deems appropriate;
- (s) To make any agreements or contracts with the federal government or any agency thereof, the State of Mississippi or any agency thereof, and any county, city, town, supervisor's district or election district within this state, jointly or separately, for the maintenance of charity facilities.

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

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

Section 3. This act shall take effect and be in force from and after July 1, 1993.

PEER Staff

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and Controller

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