

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

April 20, 2018

H. Donald Brock, Jr.
Attorney for the City of Greenwood
Post Office Box 941
Greenwood, Mississippi 38935-0941

Re: Appointments of Board of Trustee of a County and City-Owned Community
Hospital

Dear Mr. Brock:

Attorney General Jim Hood is in receipt of your opinion request and assigned it to me for research and response.

Facts

In your letter, you explain that the Greenwood-Leflore Hospital, a community hospital, is jointly owned by the City of Greenwood and Leflore County, both having fifty percent (50%) ownership. However, under Article IV, Section 4.3 of the bylaws of the Board of Hospital Trustees it is stated that the Board shall consist of five (5) members, two (2) of whom shall be appointed by the Greenwood City Council and three (3) of whom shall be appointed by the Leflore County Board of Supervisors.

Questions Presented

1. Whether Miss. Code Ann. Section 41-13-29(1)(6) controls the appointment of the commissioners to the Greenwood-Leflore Hospital and dictate that the appointment of the five (5) members of the Hospital Board of Commissioners should be appointed by the City and County on a prorata basis comparable to ownership interests, 50/50?
2. If so, what steps should the City and County take moving forward?

Legal Research and Response

In response to your first question, you mention that the bylaws of the Board of Trustees states that the Board shall consist of five (5) members, two (2) to be appointed by the City and three (3) to be appointed by the County. Section 41-13-35(3) authorizes a board of trustees to make and enforce hospital bylaws and/or rules and regulations necessary for the administration, government, maintenance and/or expansion of such hospitals. However, Section 41-13-35(4) provides that 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.

Section 41-13-29(b) clearly provides:

The board of trustees shall consist of not more than seven (7) members nor less than five (5) members, except where specifically authorized by statute, and shall be appointed by the respective owners on a pro rata basis comparable to the ownership interests in the community hospital. Where the community hospital is owned solely by a county, or any supervisors districts, judicial districts or election district of a county, or by a municipality, the trustees shall be residents of the owning entity.

Section 41-13-29(b) mandates that the board of trustees of a community hospital be appointed by the owners on a pro rata basis. The Greenwood-Leflore Hospital Board of Trustees has no authority to enact bylaws, rules or regulations which directly conflict with the above quoted statute.

In response to your second question, you explain that the Greenwood-Leflore Hospital is owned by the County and the City, both having fifty percent (50%) ownership. Consequently, the Owners shall appoint a five (5) member board of trustees, which will have two (2) appointments made by the County and two (2) appointments made by the City. The fifth appointment to the Board of Trustees must be agreed to and appointed by both governing authorities.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:

Avery Mounger Lee
by R.G.H.

Avery Mounger Lee
Special Assistant Attorney General