

## **Opinion No. 57-255**

October 8, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,  
Assistant Attorney General

**TO:** Mr. J. Chris Sanchez, Deputy Treasurer, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

What is the governing body in regard to the maintenance and operation of a county hospital -- the county commissioners or the hospital board of trustees?

#### CONCLUSION

The board of trustees is the governing body of the hospital after its initial appointment.

### **OPINION**

#### ANALYSIS

The above question, we believe, summarizes a number of questions asked in the original request, including whether the county commissioners can appoint a new hospital board where the present board's term has not expired; whether the county commissioners are entitled to attend all hospital board meetings relating to business of the hospital; and whether the chairman of the board of county commissioners necessarily must sign each voucher pertaining to the hospital's business and approve the same.

Article 48, pertaining to county hospitals, indicates that initially under § 15-48-8 the county commissioners were designated by the Legislature as the governing body of hospitals. The above section was enacted as Chapter 148, § 8, Laws of 1947. In 1949, however, our Legislature enacted § 15-48-10, revising the same during the 1957 Legislature, and apparently for all purposes delegated the duty of maintaining and administering county hospitals to a county hospital board composed of five members. We quote § 15-48-10, N.M.S.A., 1953 Compilation, 1957 Pocket Supplement, in its entirety since the section resolves, in our opinion, the questions asked in the request.

"Boards of county commissioners in counties which have or shall hereafter erect county hospitals are hereby authorized to appoint a board, to be composed of five members, with terms of five years each, one member of the original board to be appointed for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years, and one member for a term of five years,

said board to be known as the 'Board of Trustees of the \_\_\_\_ County Hospital.' The board shall select from its membership a president and a secretary. After their appointment none of the members of said board shall be removed except for cause specified in a written charge and after full and public hearing on the charge. Such board of trustees shall have full power and authority to manage and operate the hospital, to receive all funds appropriated therefor or paid from any source on account of patients accommodated in said hospital, to prescribe rules and regulations for admittance of patients to the hospital, to enter into contracts with the federal government and departments and agencies thereof for the hospitalization of patients under the jurisdiction of the federal government, including Indian patients, and to enter into such contracts with the department of public welfare and other public and charitable agencies and institutions, to employ all personnel engaged in the operation of said hospital, and to fix their compensation and to discharge them. Notwithstanding the provisions of any other law, said board shall have the power and authority to enter into long term contracts with the federal government, which contracts shall be binding on the successors in office of the trustees and shall be binding upon the county commissioners and their successors in office. The county commissioners shall cause to be paid over to said trustees all moneys realized through tax levy or otherwise for the operation of said hospital, and said trustees shall account annually for the receipt and expenditures of such funds. Each member of the board of trustees shall furnish a surety bond, executed by a surety company authorized to do business in the state of New Mexico, conditioned that he will faithfully perform his duties and account for and pay over all funds which shall come into his possession, said bond to be in the penal sum of five thousand dollars (\$ 5,000.00), the premium thereon to be paid out of the operating funds of said hospital."

As indicated by the above section, the hospital board is appointed by the county commissioners for a term of five years, and none of the members of the said board shall be removed except for cause specified in a written charge after a full and public hearing on such charges. It is, therefore, apparent that the county commissioners do not have the authority to appoint a new board.

The above section further points out that the board of trustees has full power and authority to manage and operate the hospital, to receive all funds appropriated from any source, to enter into long term contracts with the Federal Government, and to receive from the county commissioners all money realized through tax levy, or otherwise, for the operation of the hospital.

As stated in the title to the Act, § 15-48-10 authorizes the county commissioners to appoint trustees to manage and operate county hospitals.

By way of summary, it would appear that a hospital board is the governing body of the county hospital once it has been appointed, and the authority of the county commissioners is limited to a review of the annual accounting submitted by the board of trustees at the end of each fiscal year.