July 23, 2001

OPINION NO. 2001-028

The Honorable James B. Grandey
Highland County Prosecuting Attorney
100 S. S. High Street, Suite 201
Hillsboro, Ohio 45123

Dear Prosecutor Grandey:

You have requested an opinion concerning the two governing bodies of a joint township hospital district, the joint township district hospital board and the board of hospital governors. Your specific questions are as follows:

1. Does the county prosecutor represent both the joint township district hospital board and the board of hospital governors?

2. Must the representative from each township to the board of governors be approved by the entire joint township district hospital board?

3. Can the terms of the representatives to the board of hospital governors be staggered?

Before we address your specific questions, we must first examine the manner in which a joint township hospital district is established and governed. Pursuant to R.C. 513.07, "[t]he boards of township trustees of any two or more contiguous townships, whether or not within the same county, may, by a two-thirds favorable vote of each such board, form themselves into a joint township district hospital board for the purpose of establishing, constructing, and maintaining a joint township district general hospital or other hospital facilities." The townships are a part of the joint township hospital district and all members of the boards of township trustees of the participating townships comprise the joint township district hospital board. *Id.* Municipal corporations meeting certain criteria may also participate in the formation of a joint township hospital district or become a part of an established joint township hospital district. R.C. 513.071. A participating municipal corporation is represented on the joint township district hospital board by the presiding officer and two other members of its legislative authority. *Id.*

The board of a joint township hospital district is empowered to issue bonds, "when approved by the vote of the electorate of the district voting as a subdivision," and receive other moneys in order to pay the costs of hospital facilities and the necessary expenses for the operation and maintenance of such hospital facilities. R.C. 513.12. The board may also levy a tax in excess of the ten-mill limitation, if approved by the electors in the district, to provide funds for the necessary operating expenses of the hospital facilities. R.C. 513.12; R.C. 513.13. *See* 1947 Op. Att'y Gen. No. 1801, p. 208 (a joint township hospital district is an independent, separate subdivision in issuing bonds and levying a tax under (what are now) R.C. 513.12 and R.C. 513.13). *Accord* 1950 Op. Att'y Gen. No. 1644, p. 195; 1946 Op. Att'y Gen. No. 1161, p. 619. The board of a joint township hospital district holds title to the hospital and all property pertaining thereto, and has the power to appropriate lands in the selection and acquisition of a site for the hospital. R.C. 513.15.

Another important responsibility of a joint township district hospital board is to establish a board of hospital governors, for the purpose of operating the district hospital, and to appoint the members thereof, as prescribed by R.C. 513.16. The board of hospital governors, in turn, has the duty to "erect, furnish, and equip necessary buildings for a joint township general hospital," and employ a hospital superintendent. R.C. 513.17. The superintendent has "complete charge and control of the operation of such hospital," subject to the direction of the board of hospital governors. *Id*.

Representation by the County Prosecutor of a Joint Township District Hospital Board

We turn now to your specific questions. You first ask whether the county prosecuting attorney is the legal adviser for a joint township district hospital board (district board). The county prosecutor has only those powers that are conferred upon him by statute, and thus may serve as legal counsel to the district board only if authorized by law. *See State ex rel. Finley v. Lodwich*, 137 Ohio St. 329, 29 N.E.2d 959 (1940). Division (A) of R.C. 309.09 provides that the prosecuting attorney is the legal adviser of the board of county commissioners, board of elections, and "all other county officers and boards." Division (B) of R.C. 309.09 states that the county prosecuting attorney is the legal adviser "for all township officers, boards, and commissions."[1] Thus, the county prosecuting attorney has a duty to serve as the legal adviser for a district board pursuant to R.C. 309.09 if it is a county board or township board.[2]

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[1] If, however, a township has adopted a limited home rule government under R.C. Chapter 504, the board of trustees may appoint a law director, "who shall be an attorney licensed to practice law in this state," or enter into a contract to have the county prosecuting attorney serve as the township law director. R.C. 504.15. *See also* R.C. 309.09(B).

[2] There is no statute expressly authorizing the county prosecuting attorney to serve as legal counsel for a joint township hospital district or its governing boards. *Cf.* R.C. 309.09(D) (the prosecuting attorney and the board of county commissioners may contract with a board of park

As you note in your letter of request, 1960 Op. Att'y Gen. No. 1234, p. 205 concluded that the county prosecuting attorney is the legal adviser for a joint township district hospital board, stating, "the members of the board are township trustees who are also representing their respective townships and who are all represented as township officers by the same prosecuting attorney." *Id.* at 207-08. The opinion reached its conclusion, despite recognizing that the trustees, "when acting as a joint township district hospital board are not, of course, dealing specifically with affairs of their respective townships, but are representing a separate district which has been termed a separate subdivision." 1960 Op. Att'y Gen. No. 1234 at 207. After 1960 Op. Att'y Gen. No. 1234, p. 205 was issued, however, R.C. Chapter 513 was amended in such a way that requires us to re-examine the continuing validity of the conclusions reached in that opinion.

When 1960 Op. Att'y Gen. No. 1234, p. 205 was issued, R.C. 513.07 permitted the boards of trustees of "two or more contiguous townships *in any county*" to form a joint township hospital district. *See* 1953-1954 Ohio Laws 74 (Am. S.B. 131, eff. Oct. 2, 1953). In 1965, however, R.C. 513.07 was amended to permit the boards of trustees of "two or more contiguous townships, *whether or not within the same county*," to form a district. 1965 Ohio Laws 239, 1870 (Am. H.B. 553, eff. June 2, 1965). Am. H.B. 553 also enacted R.C. 513.071, permitting a municipal corporation to participate in the formation of, or join an established, joint township hospital district, and to be represented on the joint township district hospital board by three members of its legislative authority. 1965 Ohio Laws at 240. Thus, it is now possible for a joint township hospital district to encompass townships in different counties, and to include municipal corporations as well as townships. No longer are all members of the district board necessarily represented by the same county prosecuting attorney.

Previous opinions of the Attorney General have concluded that a county prosecuting attorney does not serve as legal adviser to entities that may be established by political subdivisions on a multi-county basis. *See* 1993 Op. Att'y Gen. No. 93-001 (regional planning commission); 1985 Op. Att'y Gen. No. 85-012 (regional organization for civil defense); 1981 Op. Att'y Gen. No. 81-059 (joint recreation district); 1975 Op. Att'y Gen. No. 75-014 (joint county mental health board). This is so even where the governing board of such entity is composed solely of the members of the boards of county commissioners or boards of township trustees of the counties or townships that establish the district. *See, e.g.*, 1989 Op. Att'y Gen. No. 89-102 (a prosecuting attorney is not required to serve as legal counsel to a joint solid waste management district board of directors, even though it is composed of the boards of county

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commissioners for the prosecuting attorney to provide legal services to the park district); R.C. 1515.11 (the prosecuting attorney shall be the legal adviser of a soil and water conservation district); R.C. 3313.35 (the prosecuting attorney shall be the legal adviser of all boards of education, with certain exceptions, and the governing board of an educational service center in the county).

commissioners of the counties that establish the district);[3] 1983 Op. Att'y Gen. No. 83-064 (syllabus, paragraph 1) ("[w]here a joint board of county commissioners is created for the purpose of constructing and maintaining a multicounty detention and treatment facility for the training and treatment of juveniles, the county prosecuting attorneys of the participating counties have no duty to provide legal counsel for the joint board of county commissioners").

Similarly, a county prosecuting attorney has no authority to serve as legal adviser to an entity which includes one or more municipalities or other subdivisions that are not statutory clients of the prosecuting attorney, even where all of the member subdivisions are located within the prosecutor's county and include one or more of the prosecutor's statutory clients. *See* 1985 Op. Att'y Gen. No. 85-071 (a prosecuting attorney is not the legal adviser of a joint fire district which can be comprised of municipal corporations and townships); 1979 Op. Att'y Gen. No. 79-039 (syllabus, paragraph 1) ("[a] county prosecuting attorney has no statutory duty to advise the board of trustees of a joint ambulance district, formed pursuant to R.C. 505.71, which is comprised of townships and municipalities in a single county"). *See also* 1994 Op. Att'y Gen. No. 94-035 at 2-177 (concluding that a county prosecuting attorney may not represent a county-wide park district or joint ambulance district, and stating, "[t]hat the districts are located in the county, or in townships that are part of the county, is not sufficient to imply such authority"); 1990 Op. Att'y Gen. No. 90-017 (a county prosecutor has no duty to provide counsel to a countywide emergency management agency which is created by the board of county commissioners and the legislative authority of other political subdivisions within the county, including municipalities); 1981 Op. Att'y Gen. No. 81-059 at 2-237 (a joint recreation district is not a township board for purposes of R.C. 309.09, "since the jurisdiction of a joint district may encompass a varied combination of municipal, school, foreign county, and distinct township park districts in addition to any member townships, and since the district is an entity apart from a particular township").

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[3] Following the issuance of 1989 Op. Att'y Gen. No. 89-102, the General Assembly amended R.C. 343.01 by adding language that grants the board of directors of a joint solid waste management district the authority to "designate the prosecuting attorney of one of the counties forming the district to serve as the legal advisor of the district," and imposes upon the prosecutor, when so designated, the duty to provide such services to the district as are authorized to be provided to county boards under R.C. Chapter 309. R.C. 343.01(E)(2). *See* 1991-1992 Ohio Laws, Part IV, 6244, 6256 (Sub. H.B. 723, eff. April 16, 1993). The amendment also provides that, even where the board of directors employs other counsel rather than designating a county prosecutor as its legal advisor, "the board of directors may require written opinions or instructions from the prosecuting attorney of any of the counties forming the district in matters connected with the board's official duties, and the prosecuting attorney shall provide the written opinion or instructions as though he had been designated to serve as the district's legal advisor." *Id.* Sub. H.B. 723 demonstrates that, where the General Assembly has intended to authorize a county prosecuting attorney to act as legal adviser to a multi-county entity, it has expressly so provided.

These opinions have explained that such districts are autonomous legal entities, distinguishable from the individual subdivisions that participate in their creation, and governed by a board that may exercise authority over an area that exceeds the territorial limits of the county or townships represented by the county prosecuting attorney. *See* 1993 Op. Att'y Gen. No. 93-001; 1989 Op. Att'y Gen. No. 89-102; 1985 Op. Att'y Gen. No. 85-071; 1981 Op. Att'y Gen. No. 81-059 at 2-237 ("a joint recreation district is a separate entity, established by action of the participating subdivisions, rather than a subdivision or subordinate department of a county," and "it is clear that a joint recreation district will not necessarily have jurisdiction coextensive with the county").

In light of the amendments to R.C. Chapter 513, which now permit a joint township hospital district to be composed of townships in more than one county and to include municipalities as well as townships, and based on the authority set forth above, we conclude that a county prosecuting attorney has no duty or authority to serve as legal adviser to a joint township district hospital board. 1960 Op. Att'y Gen. No. 1234, p. 205 is thus overruled to the extent that it concludes to the contrary.

We note that the county prosecuting attorney lacks such authority even as to a particular board which is composed solely of the members of boards of township trustees located within the county he serves. It is beyond dispute that a joint township hospital district is a separate subdivision, independent from any of the townships or other subdivisions creating it. *See* 1987 Op. Att'y Gen. No. 87-079 at 2-518 ("[a] joint township hospital district … is a political subdivision separate and distinct from the individual townships included within such district" and "the hospital itself, and all real and personal property pertaining thereto, belong, as a matter of law, to the joint township district hospital board," and not the townships that comprise the district); 1950 Op. Att'y Gen. No. 1644, p. 195; 1947 Op. Att'y Gen. No. 1801, p. 208; 1946 Op. Att'y Gen. No. 1161, p. 619 (syllabus, paragraph 1) ("[a] joint township hospital district established under [R.C. 513.07] is a subdivision separate and distinct from the other subdivisions whose territory may be included within its boundary"). Even 1960 Op. Att'y Gen. No. 1234, p. 205 recognized that township trustees, when acting as a joint township district hospital board, are not "of course" dealing with the affairs of their respective townships, but are serving a separate subdivision. As delineated above, a joint township district hospital board is vested with the power to issue bonds, levy taxes, and own and appropriate property. A joint township district hospital board, regardless of its particular composition, is an independent entity, separate and apart from the prosecutor's statutory clients, the county and townships.

Therefore, a county prosecuting attorney has no duty or authority to serve as legal adviser to a joint township district hospital board, even where the district is composed solely of townships located within his county. *See* 1994 Op. Att'y Gen. No. 94-082 at 2-407 (a county prosecutor is not the legal adviser to a regional transit authority, even where it consists of a single county, because single county authorities have the same statutory powers that are given authorities composed of multiple subdivisions, and "[r]egardless of its size or the number of its

participants, a regional transit authority has statutory powers that make it a separate political subdivision, rather than a county board"); 1985 Op. Att'y Gen. No. 85-071 at 2-278 ("even if a particular board of fire district trustees is composed entirely of township trustees, the board is not, as such, entitled to have the county prosecutor serve as its legal adviser"). *See also* 1990 Op. Att'y Gen. No. 90-087 (a regional airport authority is a separate and independent subdivision, whether created by a single county or a combination of counties).

We must also consider the extent of the county prosecutor's duties to advise the individual members of a joint township district hospital board who are township trustees serving within his county, since the prosecutor has a duty under R.C. 309.09(B) to act as legal adviser to township officers. Previous opinions have concluded that a county prosecutor is not legal adviser to the individual board members of an independent entity, even where a member has been appointed to the board due to his service as a county commissioner or township trustee. *See, e.g.,* 1993 Op. Att'y Gen. No. 93-001 (a member of the governing board of a regional planning commission is neither a county officer nor a township officer for purposes of receiving legal counsel from the prosecuting attorney under R.C. 309.09, even if the board member is a county commissioner or township trustee who is serving on the board by virtue of holding such office); 1989 Op. Att'y Gen. No. 89-102; 1985 Op. Att'y Gen. No. 85-071. *See also* 1990 Op. Att'y Gen. No. 90-017 (a county prosecutor has no duty to provide legal counsel to the director of a countywide emergency management agency, even though the enabling statute permits a county or township officer to serve as director). Again, the opinions have reasoned that, because a district composed of various subdivisions is an independent entity, rather than a subordinate department of the county or any one township, and because the board members may exercise authority over an area exceeding the territorial limits of a county or township, they are not county or township officers, but are officers of that independent agency. 1993 Op. Att'y Gen. No. 93-001; 1990 Op. Att'y Gen. No. 90-017; 1989 Op. Att'y Gen. No. 89-102.

1985 Op. Att'y Gen. No. 85-071 has further clarified the prosecutor's duty to advise township trustees who serve in their official capacity on the board of an independent entity. This opinion considered whether a township trustee who, by virtue of holding that office, served on the governing board of a joint fire district was entitled to have the prosecuting attorney act as his legal adviser on matters pertaining to the joint fire district. The opinion states at 2-278:

> A township trustee is clearly a township officer for purposes of R.C. 309.09, *see generally* R.C. Chapter 505, and a township trustee who serves as a representative to a board of fire district trustees will, *as township trustee, be entitled to the legal advice and representation of the county prosecutor with respect to any township duties that he may have, including township duties that relate to the activities of the joint fire district.* (Emphasis added.)

The opinion proceeds to conclude that, "[t]he duty of the county prosecutor to serve as legal adviser of township trustees who serve on a board of fire district trustees extends, however, only

to matters arising from their positions as township trustees, and not to all matters before the joint fire district." *Id.* at 2-278.[4]

Accordingly, while the prosecuting attorney may advise the township trustees from his county regarding their duties, as township trustees, on matters which relate to the activities of the joint hospital district, he has no duty to advise these trustees or other members of the board as to any and all matters concerning the district.[5]

This does not mean, of course, that the district board must operate without benefit of legal counsel. As explained in 1985 Op. Att'y Gen. No. 85-071 at 2-278:

> …the Revised Code makes no express provision for a joint fire district to obtain legal advice. A board of fire district trustees is, however, vested with a number of powers which may, in their exercise, create a need for legal advice, as, for example, the power to own, lease, and maintain property, the power to employ firefighters, and the power to levy a tax.… It is a general rule that public officials have both such powers as are expressly conferred by statute and such powers as may be reasonably and necessarily inferred from the statutory powers…. It follows that when a board of fire district trustees is in need of legal advice in order to carry out its statutory functions, it may employ legal counsel to provide such advice…. (Citations omitted.)

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[4] 1985 Op. Att'y Gen. No. 85-071 concluded that the prosecutor has no authority to advise the board members of a joint fire district even where the board is composed solely of township trustees. In so doing, it contrasted the conclusion of 1960 Op. Att'y Gen. No. 1234, p. 205 that the board members of a joint township hospital district, composed at that time of only townships within the same county, were entitled to legal representation by the county prosecutor. With the changes made to R.C. Chapter 513 in 1965, as discussed above, the board of a joint township hospital district may now include persons other than township trustees in the prosecutor's county. Thus, a joint township hospital district is now analogous to a joint fire district as analyzed in 1985 Op. Att'y Gen. No. 85-071 for purposes of R.C. 309.09, and the distinction between the two described in that opinion has essentially disappeared.

[5] For example, R.C. 513.12 authorizes the board of township trustees of participating townships to pay to the joint township district hospital board any unencumbered funds of the township in order to maintain hospital facilities. Such moneys may not be used by the district board "for the replacement of necessary equipment, the purchase of a site, construction, equipping, or furnishing of additions to the hospital facilities, or the purchase or construction of capital improvements to the hospital facilities." *Id.* The prosecuting attorney would have the authority to advise the trustees within his county as to their township duties with regard to such payments, but not as to the hospital board's use of such funds.

See 1960 Op. Att'y Gen. No. 1234, p. 205 (concluding that a board of hospital governors, which is not entitled to representation by the county prosecutor, has the implied authority to employ legal counsel as necessarily incident to the performance of its statutory duties); 1950 Op. Att'y Gen. No. 1644, p. 195 (assuming, without discussion, the ability of the board to retain outside counsel in concluding that a joint township district hospital board may pay from the proceeds of a special tax levy the fees of outside legal counsel, hired to defend a taxpayer's action contesting the sale of bonds). *See also* 1989 Op. Att'y Gen. No. 89-102; 1985 Op. Att'y Gen. No. 85-012; 1983 Op. Att'y Gen. No. 83-064; 1979 Op. Att'y Gen. No. 79-019. Thus, the board of a joint township hospital district has the implied authority to hire legal counsel in order to carry out its statutory duties.

Representation by the County Prosecutor of the Board of Hospital Governors

You have also asked whether the county prosecuting attorney has a duty to advise the board of hospital governors (board of governors). We turn again to 1960 Op. Att'y Gen. No. 1234, p. 205. The opinion describes a member of the board of governors as follows:

> [A]lthough he might qualify as an officer under the general definition … he does not act as a township officer, but as a part of an agency separate and apart from any one township…. [T]he member of the board of governors is appointed to "erect, furnish, and equip necessary buildings for a joint township general hospital." (See Section 513.17, Revised Code.) His duties, therefore, are performed purely for the district and he has no connection with any one township. He could not, therefore, be termed a township officer…. The prosecuting attorney, therefore, is not required under [R.C. 309.09] to represent the board of governors and I am unable to find any other provision of law requiring such representation.

Id. at 208. *See also* 1985 Op. Att'y Gen. No. 85-071 at 2-278 (citing the characterization of members of the board of hospital governors in 1960 Op. Att'y Gen. No. 1234, p. 205 with approval).[6]

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[6] We are aware that, in *Stegall v. Joint Township District Memorial Hospital*, 20 Ohio App. 3d 100, 484 N.E.2d 1381 (Auglaize County 1985), the court characterized a board of governors of a joint township district hospital as a township board. The issue presented was whether a board of hospital governors is subject to R.C. 121.22, division (C) of which requires all meetings of a public body to be open to the public at all times. A "public body" is defined for purposes of R.C. 121.22 to include any board "or similar decision-making body" of "any county, township, municipal corporation, school district, or other political subdivision or local public institution." R.C. 121.22(B)(1). The court determined that a board of hospital governors makes "decisions essential to the construction and equipping of a general hospital, which is a public facility," and thus presumably falls within the definition of "public body" as a decision-making

You have noted that, when the 1960 opinion was issued, the court of common pleas appointed the at-large members of the board of governors, but that the current version of R.C. 513.16 requires the joint township district hospital board to do so.[7] However, in concluding that the members of the board of governors are not township officers, the opinion did not focus on who appointed the governors, but on the nature of their duties, which has not changed since the 1960 opinion was written. Even if the opinion had included the identity of the governors' appointing authority as an element in its analysis, our conclusion in this opinion that the district board is not, by virtue of the amendments to R.C. Chapter 513 in 1965, entitled to representation by the county prosecutor, strengthens the conclusion in 1960 Op. Att'y Gen. No. 1234, p. 205 that the board of governors is likewise not entitled to representation by the county prosecuting attorney.

Thus, the conclusion of 1960 Op. Att'y Gen. No. 1234, p. 205 that the prosecuting attorney is not the legal adviser of a board of hospital governors formed pursuant to R.C. 513.16 is approved and followed. We further approve and follow 1960 Op. Att'y Gen. No. 1234, p. 205

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body of a local public institution. 20 Ohio App. 3d at 102, 484 N.E.2d at 1383. However, the court continued on to characterize the board of hospital governors as a township board "since it exists by virtue of authority granted by the legislature for the creation of joint township hospital facilities" and is "created by and appointed by the several townships here concerned." 20 Ohio App. 3d at 102-03, 484 N.E.2d at 1384.

As discussed at length in this opinion and in 1960 Op. Att'y Gen. No. 1234, p. 205, a joint township hospital district is a separate entity, distinct from the townships that establish it, and the fact that the members of the board of hospital governors are appointed by the district board, which is composed of township trustees, does not establish the hospital governors as township officers. Furthermore, the court's finding that the board of hospital governors is a township board was unnecessary to its conclusion that the board is a public body subject to R.C. 121.22, since it had already determined that the board was a decision-making body of a local public institution. *See* 1987 Op. Att'y Gen. No. 87-079. While we do not dispute that R.C. 121.22 applies to the board of hospital governors, we cannot conclude that the board is a township board for purposes of R.C. 309.09.

[7] At the time 1960 Op. Att'y Gen. No. 1234, p. 205 was issued, R.C. 513.16 read in part as follows: "As soon as possible after organization, the joint board shall appoint one elector from each township represented and the judge of the court of common pleas of the county shall appoint three electors at large." *See* 1941 Ohio Laws 354, 356 (H.B. 372, filed May 22, 1941)). (R.C. 513.16 was first enacted as G.C. 3414-6.) R.C. 513.16 was amended in 1980 to have the joint township district hospital board appoint the at-large members, as well as the members from the participating townships. 1979-1980 Ohio Laws, Part I, 942, 948 (Am. S.B. 276, eff. July 31, 1980).

in concluding that a board of hospital governors is authorized to employ legal counsel in order to assist it in performing its statutory duties. *Id.* (syllabus, paragraph 2).[8]

In view of the foregoing, we must decline to address your other questions concerning appointments made by the district board to the board of hospital governors. R.C. 109.14 authorizes the Attorney General, in pertinent part, to "advise the prosecuting attorneys of the several counties respecting their duties." As we have concluded, however, R.C. 309.09 imposes no duty upon a prosecuting attorney to furnish legal advice or counsel to a joint township district hospital board or the board of hospital governors.

It is, therefore, my opinion, and you are hereby advised that:

1. A county prosecuting attorney is not the legal adviser of the board of a joint township hospital district, even where the district is composed solely of townships located within the county served by the prosecuting attorney. (1960 Op. Att'y Gen. No. 1234, p. 205, overruled in part.)

2. A county prosecuting attorney may advise the township trustees from his county who serve on a joint township district hospital board regarding

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[8] In reaching this conclusion we are aware that R.C. 513.17(E) authorizes a board of hospital governors, with the approval of the county commissioners, to "employ counsel and institute legal action in its own name for the collection of delinquent accounts." This authorization arguably acts as constricting authority on the board's ability to hire legal counsel generally. In other words, it could be said that since the General Assembly has specifically addressed the authority of a board of hospital governors to hire legal counsel and has limited such authority to the employment of counsel for the collection of delinquent accounts, such provision constitutes constricting authority upon the board's power to hire a legal adviser; that if the legislature had intended to provide broader authority to the board to secure legal services, it could easily have done so. *See, e.g.*, R.C. 343.01(E)(2) (authorizing the board of a joint solid waste management district to "employ on an annual basis an attorney or other legal counsel to serve as the district's legal advisor"). *See also* R.C. 309.10. We do not, however, find the argument persuasive in this instance.

First, the language of division (E) was part of R.C. 513.17 when 1960 Op. Att'y Gen. No. 1234, p. 205 was issued, and was acknowledged in the opinion. *Id.* at 209. Such language did not alter the opinion's conclusion that the board of hospital governors had the implied authority to hire legal counsel to assist it in performing its duties under R.C. Chapter 513. More importantly, the fact remains that the board of hospital governors has a wide range of complex duties that necessitate the assistance of legal counsel. To find that a board of hospital governors is entitled neither to the assistance of the county prosecuting attorney nor the services of outside legal counsel, other than for the collection of accounts, would assuredly cripple the board's ability to function, and we decline to do so.

their duties, as township trustees, on matters that relate to the activities of the joint township hospital district. The county prosecuting attorney has no authority, however, to advise these trustees or other members of the joint township district hospital board as to any and all matters before the board.

3. The board of a joint township hospital district has the implied authority to employ legal counsel in order to carry out its statutory duties.

4. A county prosecuting attorney is not the legal adviser of the board of hospital governors of a joint township district hospital. The board of hospital governors has the implied authority, however, to employ legal counsel in order to carry out its statutory duties. (1960 Op. Att'y Gen. No. 1234, p. 205, approved and followed in part.)

Respectfully,

BETTY D. MONTGOMERY
Attorney General

July 23, 2001

The Honorable James B. Grandey
Highland County Prosecuting Attorney
100 S. S. High Street, Suite 201
Hillsboro, Ohio 45123

SYLLABUS: 2001-028

1. A county prosecuting attorney is not the legal adviser of the board of a joint township hospital district, even where the district is composed solely of townships located within the county served by the prosecuting attorney. (1960 Op. Att'y Gen. No. 1234, p. 205, overruled in part.)

2. A county prosecuting attorney may advise the township trustees from his county who serve on a joint township district hospital board regarding their duties, as township trustees, on matters that relate to the activities of the joint township hospital district. The county prosecuting attorney has no authority, however, to advise these trustees or other members of the joint township district hospital board as to any and all matters before the board.

3. The board of a joint township hospital district has the implied authority to employ legal counsel in order to carry out its statutory duties.

4. A county prosecuting attorney is not the legal adviser of the board of hospital governors of a joint township district hospital. The board of hospital governors has the implied authority, however, to employ legal counsel in order to carry out its statutory duties. (1960 Op. Att'y Gen. No. 1234, p. 205, approved and followed in part.)