

**OPINION NO. 80-068****Syllabus:**

The board of hospital governors of a joint township hospital district may expend funds to establish satellite facilities or outpatient clinics in townships that are not part of the joint township hospital district only if such facilities or clinics are necessary to provide hospital services to inhabitants of the joint township hospital district.

**To: Daniel Myers, Mercer County Pros. Atty., Celina, Ohio**

**By: William J. Brown, Attorney General, October 28, 1980**

I have before me your request for an opinion concerning whether the board of hospital governors of a joint township district hospital may expend funds to establish satellite facilities or outpatient clinics within the county but in townships that are not part of the joint township hospital district.

The governing statute with respect to your question is R.C. 513.17, which provides, in pertinent part, as follows:

The board of hospital governors shall, with the consent and approval of the joint township district hospital board and as provided by sections 513.07 to 513.18 and 3702.51 to 3702.67 of the Revised Code, prepare plans and specifications, and may employ technical assistance if necessary, and proceed to erect, furnish, and equip necessary buildings for a joint township general hospital. (Emphasis added.)

In addition, as mentioned in your letter, R.C. 513.12 provides, in pertinent part:

Moneys received from hospital income or services rendered, or funds from any other source, including the issuance of bonds. . . may be used 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, and to pay the cost of hospital facilities as defined in section 140.01 of the Revised Code. (Emphasis added.)

It is well settled that townships and their trustees are creatures of law and may exercise only those powers conferred by statute, or such others as are necessarily to be implied from those granted, to enable them to perform the duties imposed upon them. Trustees of New London Twp. v. Miner, 26 Ohio St. 452 (1875). Since the joint township district hospital board and the board of hospital governors owe their existence to statute, their authority must also be drawn from statute. See generally State ex rel. Schramm v. Ayres, 158 Ohio St. 30, 106 N.E. 2d 630 (1952).

According to R.C. 513.17, the board of hospital governors has authority "to erect, furnish, and equip necessary buildings for a joint township general hospital." In looking at various sections of R.C. Chapter 513, it seems clear that the purpose of these statutes is to provide hospital services for the inhabitants of the township. See R.C. 513.01 ("furnish hospital service to the inhabitants of such township"); R.C. 513.05 (provide "for the treatment of the sick and disabled of the township"). Although it may seem that such a policy would be best carried out by the erection of hospital facilities within the joint township hospital district, the only statutory limitation placed on the power is that such buildings be "necessary," which, as used in other statutes, has been construed to mean "reasonably necessary to secure the end in view." Solether v. Ohio Turnpike Comm'n, 99 Ohio App. 228, 231, 133 N.E. 2d 148, 151 (1954) (discussion of necessity of taking by eminent domain). That hospital facilities serving the joint township hospital district need not be located within the district may fairly be implied from the provisions of R.C. 513.08 and 513.081, which permit a joint township hospital district, in lieu of establishing its own hospital, to participate in the erection, enlargement, maintenance, or operation of a municipal or county hospital; such municipal or county hospital evidently need not be located within the joint township hospital district.

Thus, should the board of hospital governors reasonably deem it "necessary," in order to provide hospital services to the township inhabitants, to erect satellite facilities or outpatient clinics in townships that are not part of the joint county hospital district, such action would seem to be authorized by R.C. Chapter 513.<sup>1</sup> The opposite conclusion would result if the hospital facilities were not needed to serve the residents of the joint township hospital district, but served primarily to accommodate the inhabitants of an outlying district, for such a purpose would exceed the authority granted to the joint township hospital board.<sup>2</sup> See generally State ex rel. Bowman v. Board of Commissioners, 124 Ohio St. 174, 177 N.E. 271 (1931) (holding that public construction of a sewer system constituted a gross abuse of discretion where the improvements did not confer a benefit upon taxpayers); Manning v. Devil's Lake, 13 N.D. 47, 99 N.W. 51 (1904) (holding that the construction of a bridge outside the boundary of a city, the purpose of which is not to serve the convenience of the inhabitants, but to benefit the citizens of an outlying district, is not a valid exercise of the taxing power).

Accordingly, it is my opinion, and you are advised, that the board of hospital governors of a joint township hospital district may expend funds to establish

<sup>1</sup>Your opinion request makes reference to facilities "within the County but in Townships not a part of the Joint Township Hospital District." If the facilities are not within the townships which comprise the joint township hospital district, it is irrelevant whether they are within the county in which the joint district is located. In fact, a joint township hospital district need not be located within a single county. R.C. 513.07.

<sup>2</sup>As a practical matter, while the establishment of a satellite hospital or outpatient clinic outside the joint township hospital district may benefit the residents of that district, such establishment would also clearly benefit residents of the township where the new facility is located. If the township in which the proposed facility is to be located were to join the joint township hospital district pursuant to R.C. Chapter 513, any question of fact concerning the persons to be benefited by the proposed expansion, and the consequent authority to expand into that area, would be eliminated.

R.C. 513.18 provides the method by which townships not currently a part of a joint township hospital district may join an existing joint township hospital district. See also R.C. 513.071 (providing a procedure whereby a municipality not currently a part of a joint township hospital district may become part of an established joint township hospital district). Both R.C. 513.071 and 513.18 contemplate a sharing of the cost, as well as the benefits, upon joining a joint township hospital district. See 1971 Op. Att'y Gen. No. 71-039 at 2-132 ("a township could be required, as a condition of joining a joint township hospital district, to submit to the electors the question of assuming its share of bonded indebtedness").

satellite facilities or outpatient clinics in townships that are not part of the joint township hospital district only if such facilities or clinics are necessary to provide hospital services to the inhabitants of the joint township hospital district.