

**OPINION NO. 89-060****Syllabus:**

1. Pursuant to R.C. 513.16, an individual who is appointed as a township elector to the board of hospital governors of a joint township district hospital must reside within the township from which he is appointed.
2. Pursuant to R.C. 513.16, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors of a joint township district hospital must reside within the joint township hospital district.
3. Pursuant to R.C. 513.16, an individual who is appointed as a township elector to the board of hospital governors of a joint township district hospital must continue to reside within the township from which he was appointed in order to retain his position on the board.
4. Pursuant to R.C. 513.16, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors of a joint township district hospital must continue to reside within the joint township hospital district in order to retain his position on the board.
5. A vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a township elector ceases to reside within the township from which he was appointed.
6. A vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a joint township hospital district elector-at-large ceases to reside within the joint township hospital district.
7. Whenever a vacancy exists upon the board of hospital governors of a joint township district hospital by reason of a board member's change of residency, the joint township district hospital board shall, pursuant to R.C. 513.16, fill such vacancy by

an appointment, in the manner therein provided, for the unexpired term of the original appointment.

**To: Mark E. Spees, Auglaize County Prosecuting Attorney, Wapakoneta, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, July 26, 1989**

You have requested my opinion regarding the eligibility of an individual to serve as a member of the board of hospital governors of a joint township district hospital. Specifically, you wish to know whether a duly appointed member of a joint township district hospital board of hospital governors becomes ineligible to remain on such board if he is no longer a resident of either the joint township hospital district, or the township from which he was appointed originally. Assuming an affirmative answer to that question, you have further asked how such an individual is to be removed from the board of hospital governors.

R.C. Chapter 513 authorizes a board of township trustees, acting singly or in conjunction with the boards of other townships, to establish and provide for the management and operation of a general hospital for the benefit of township inhabitants. R.C. 513.01; R.C. 513.07. Thus, R.C. 513.07 specifically provides that the boards of township trustees of any two or more contiguous townships may "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 as defined in [R.C. 140.01], and such townships shall be a part of a joint township hospital district." The members of all such boards of township trustees comprise the joint township district hospital board. *Id.* A joint township district hospital board is empowered, after proper approval by the electorate of the district, to issue and sell bonds in order to purchase a site, and to construct and equip a hospital. R.C. 513.12. R.C. 513.13 also permits the levying of a tax, not to exceed one mill outside the ten-mill limitation, to obtain funds for the payment of necessary expenses incurred in the operation of such hospital. *See also* R.C. 513.15 (the ownership of a joint township district hospital, including title to all property, both real and personal, vests in the joint township district hospital board).

R.C. 513.16 addresses the appointment of a board of hospital governors to control and oversee the operation of the joint township district hospital. R.C. 513.16 states the following:

The joint township district hospital board, as soon as possible after its organization, shall appoint one elector from each township represented and three electors-at-large from the district, one of whom shall be a doctor of medicine, to constitute a board to be known as "the board of hospital governors" and control the operation of such hospital and perform such other duties as are provided by section 513.17 of the Revised Code, except that, if a lease of the hospital is made pursuant to section 513.171 of the Revised Code, control of the operation of the hospital shall be vested in the lessee thereunder. Each of the governors shall be appointed for a term of three years, except that at the initial appointment of the board of hospital governors, one of the governors-at-large shall be appointed for a term of one year, and one of the governors-at-large shall be appointed for a term of two years. Any vacancy shall be filled by an appointment, in like manner, for the unexpired term of the original appointment.

The joint township district hospital board may, by a majority vote of its members, remove any hospital governor for good and sufficient cause, after a hearing upon written charges.

R.C. 513.17 further describes the specific powers, duties, and responsibilities conferred upon the board of hospital governors with respect to the construction and development of a joint township district hospital and the subsequent management and supervision of such hospital. *See, e.g.,* 1986 Op. Att'y Gen. No. 86-088 (syllabus, paragraph one) (pursuant to R.C. 513.16 and R.C. 513.17, a board of hospital governors may, with the approval of the joint township district hospital board, construct a building adjacent to the joint township district hospital for the purpose of leasing office space to hospital physicians for use in their private medical

practices, provided the board of hospital governors determines such purpose is reasonably related to the proper operation of the hospital); 1980 Op. Att'y Gen. No. 80-068 (pursuant to R.C. 513.17, a board of hospital governors may establish satellite facilities or outpatient clinics in townships that are not part of the joint township hospital district if such facilities or clinics are necessary to provide hospital services to inhabitants of the joint township hospital district); 1957 Op. Att'y Gen. No. 1003, p. 423 (the power vested in a board of hospital governors by R.C. 513.17 to erect, furnish, and equip a joint township district hospital includes, by implication, the power to make capital improvements to the hospital). Cf. R.C. 513.171 (granting a joint township district hospital board the authority to lease a joint township district hospital to a nonprofit charitable corporation in lieu of vesting the control and operation of such hospital in the board of hospital governors).

The focus of your inquiry is R.C. 513.16, which governs the appointment of the board of hospital governors by the joint township district hospital board. You have asked whether an individual who has been duly appointed to a board of hospital governors, pursuant to R.C. 513.16, remains eligible to serve on the board if he no longer resides either within the joint township hospital district, or within the township from which he was first appointed. If not, you further wish to know how that individual is to be removed from the board of hospital governors.

R.C. 513.16 provides that the board of hospital governors of a joint township district hospital shall be comprised of "one elector from each township represented and three electors-at-large from the district, one of whom shall be a doctor of medicine." Further, any vacancy upon such board "shall be filled by an appointment, in like manner, for the unexpired term of the original appointment." *Id.* Finally, R.C. 513.16 authorizes a joint township district hospital board, by a majority vote of its members, to "remove any hospital governor for good and sufficient cause, after a hearing upon written charges." Resolution of your questions thus requires that I consider and address several related issues: whether the place of residency of a prospective member of a board of hospital governors has a bearing upon such individual's eligibility for an appointment to the board; whether a change of residency on the part of a duly appointed board member renders that individual ineligible to remain upon the board of hospital governors; whether a vacancy on the board of hospital governors is created by reason of such ineligibility; and, if so, whether the joint township district hospital board must formally remove such board member before making a new appointment to the board of hospital governors.

I shall consider first whether the place of residency of a prospective appointee to the board of hospital governors of a joint township district hospital affects such person's eligibility to be appointed to, and to serve upon, the board. R.C. 513.16 provides that the joint township district hospital board shall appoint "one elector from each township represented and three electors-at-large from the [joint township hospital] district" to the board of hospital governors. (Emphasis added.) R.C. 513.16 makes no further express statement regarding the residency of the individuals who are appointed to serve upon the board of hospital governors. The concept of residency is implicit, however, in R.C. 513.16's use of the terms, "elector," and "electors-at-large," to describe or identify those persons who may be appointed to the board of hospital governors. Under the Ohio Constitution, and the election laws enacted pursuant thereto, "elector" is a term used to designate those persons who are entitled, *inter alia*, to vote in elections held within the State of Ohio. Ohio Const. art. V, §1 defines an "elector" for such purpose in the following manner:

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote. (Emphasis added.)

R.C. 3503.01 restates the language of Ohio Const. art. V, §1 in enumerating the qualifications that make one eligible to vote in Ohio elections. R.C. 3503.01 reads, in part, as follows:

Every citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days next preceding the election at which he offers to vote, is a resident of the county and precinct in which he offers to vote, and has been registered to vote for thirty days, has the qualifications of an elector and may vote at all elections in the precinct in which he resides.

See also R.C. 3501.01(N) (as used in the sections of the Revised Code relating to elections and political communications, "[e]lector" or "qualified elector" means "a person having the qualifications provided by law to entitle him to vote"); R.C. 3503.02 (setting forth the rules that shall apply in determining a person's proper residence for purposes of voter registration or voting). See generally *Kyser v. Board of Elections*, 36 Ohio St. 2d 17, 20, 303 N.E.2d 77, 79 (1973) ("R.C. Chapter 3503 provides more specifically the qualifications and registration process for voting"); 1962 Op. Att'y Gen. No. 3383, p. 850, at 854 (the voting requirements that appear in R.C. 3503.01 are added to those of Ohio Const. art. V, §1 "to constitute the full qualifications of an elector").

Thus, under the foregoing constitutional and statutory provisions, a person qualifies as an elector for purposes of voting in Ohio elections by satisfying the specific citizenship, age, residency, and registration requirements set forth therein. With respect to the residency requirement in particular, a person qualifies as an elector by residing within the state and, when appropriate, within either the county, township, ward, or precinct in which he intends to vote. As a general matter, therefore, an individual must, *inter alia*, reside within a township in order to be considered a township elector, and to exercise, as such, his elective franchise.

To reiterate, R.C. 513.16 states that the board of hospital governors of a joint township district hospital is to be comprised of one elector from each township represented and three electors-at-large from the joint township hospital district. R.C. 513.16 itself does not define the term, "elector," or otherwise indicate the precise sense in which that term is used therein. In this instance, therefore, it appears that R.C. 1.42 provides the pertinent principle of statutory construction. R.C. 1.42 states, in part, that, "[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly." See R.C. 1.41 (declaring that R.C. 1.41-.59, inclusive, "apply to all statutes"). (Emphasis added.) As noted in the previous discussion, the term, "elector," is used in Ohio Const. art. V, §1 and R.C. 3503.01 to describe those individuals who possess the qualifications that make them eligible to vote in Ohio elections. Thus, absent other evidence to the contrary, the term, "elector," as it is used in R.C. 513.16, should be construed as conveying the same meaning as it has in Ohio Const. art. V, §1 and R.C. 3503.01. With respect to the requirement of residency in particular, this means that an individual who is appointed to a board of hospital governors as a township elector must be a resident of the township he is appointed to represent. Similarly, an individual who is appointed to a board of hospital governors as a joint township hospital district elector-at-large must be a resident of the joint township hospital district.

I further conclude that a change of residency on the part of a duly appointed member of a joint township district hospital board of hospital governors may render that individual ineligible to remain upon the board. You have asked specifically about (1) a board member who no longer resides within the township from which he was appointed, and (2) a board member who no longer resides within the geographical boundaries of the joint township hospital district. On this point, I discern no compelling reason for distinguishing, on the one hand, between an individual's place of residency for purposes of his initial eligibility for an appointment to the board of hospital governors under R.C. 513.16, and, on the other hand, such individual's place of residency for purposes of his eligibility to continue to serve upon such board. See generally *State ex rel. Boda v. Brown*, 157 Ohio St. 368, 373, 105 N.E.2d 643, 646 (1952) ("an officer must be qualified to hold his office not only when he is elected or appointed thereto but also throughout his term"). As I have already noted, residency within either a particular township, or the joint township hospital district, is implicit in R.C. 513.16's use of the terms, "elector," and "electors-at-large," respectively to describe those persons who may be appointed to a board of hospital governors. R.C. 513.16 does not explicitly state that a person, once appointed to a board of hospital governors, must remain an elector (*i.e.*, a resident) of the

township from which he was appointed, or an elector-at-large (i.e., a resident-at-large) of the joint township hospital district, in order to retain his position on the board. Cf., e.g., R.C. 503.241 ("[w]henver any township officer ceases to reside in the township, or is absent from the township for ninety consecutive days, except in case of sickness or injury as provided in this section, his office shall be deemed vacant and the board of township trustees shall declare a vacancy to exist in such office"); R.C. 731.02 ("[a] member [of the legislative authority of a city] who...removes from his ward, if elected from a ward, or from the city, if elected from the city at large, shall forthwith forfeit his office"). In this instance, however, logic, reason, and the overall statutory context in which these two terms appear, indicate that such a requirement may properly be inferred under R.C. 513.16.

Pursuant to R.C. 513.07, the boards of township trustees of two or more contiguous townships may form themselves into a joint township district hospital board "for the purpose of establishing, constructing, and maintaining a joint township district general hospital." The townships that participate in such an enterprise "shall be a part of a joint township hospital district." *Id.* The board of hospital governors, following its appointment by the joint township district hospital board, R.C. 513.16, is, *inter alia*, assigned the responsibility to erect, furnish, and equip the buildings that are necessary for a joint township district hospital, R.C. 513.17, and generally control such hospital's operation, R.C. 513.16. The obvious import of these statutes is that a joint township district hospital exists in order to serve specifically the health and medical needs of the inhabitants of each township that is included within the joint township hospital district. Op. No. 80-068 at 2-269 ("[i]n 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," and further noting that the construction of hospital facilities to accommodate primarily the needs of persons residing outside the joint township hospital district "would exceed the authority granted to the joint township hospital board"). Given this uniquely localized character of a joint township district hospital's medical mission, it is understandable that the General Assembly might wish to entrust the supervision, management, and operation of the hospital to persons who may have more than a passing interest in ensuring that such medical mission is carried out in the most economical, efficient, and expeditious fashion possible. It is further evident that the General Assembly has, in effect, pursued such a policy by allocating the foregoing responsibilities among the township trustees, R.C. 513.07, and the township and district electors, R.C. 513.16, two categories of individuals who, by reason of their township residency,<sup>1</sup> are among the intended beneficiaries

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<sup>1</sup> I am not aware of any constitutional or statutory provision that expressly requires an individual be a township resident in order to be elected to the office of, or to serve as, township trustee. I am of the opinion, however, that such a residency requirement is reasonably implicit in several provisions in R.C. Chapter 503 (townships; general provisions) that are addressed to vacancies in township offices. Article X, §2 of the Ohio Constitution, states, in pertinent part, that, "[t]he general assembly shall provide by general law for the election of such township officers as may be necessary." Pursuant thereto R.C. 505.01 provides that, "[i]n each township there shall be a board of township trustees consisting of three members," two of whom "shall be elected at the general election in nineteen forty-nine and quadrennially thereafter, in each township, who shall hold office for a term of four years, commencing on the first day of January next after their election," and one of whom "shall be elected at the general election in nineteen fifty-one and quadrennially thereafter, in each township, who shall hold office for a term of four years, commencing on the first day of January next after his election." Thus, a township trustee is a township officer, *see*, e.g., 1946 Op. Att'y Gen. No. 764, p. 128, at 131 ("[u]nder the provisions of [G.C. 3268, now R.C. 505.01,] township trustees are elected officers"), and, as such, comes within the purview of R.C. 503.24 and R.C. 503.241, which set forth, respectively, the procedures that govern the filling of vacancies in township offices, and the circumstances in which such vacancies shall be deemed to have occurred. R.C. 503.24 thus states, in part, that

of the health care services provided by a joint township district hospital. Thus, in view of the relative importance attached to residency as a qualifying factor for an individual's initial appointment to the board of hospital governors, one may reasonably presume that such individual's eligibility to remain upon the board is contingent upon his continuing residence, as the case may be, within the township from which he was appointed, or within the joint township hospital district.

Accordingly, I conclude that an individual who is appointed as a township elector to the board of hospital governors of a joint township district hospital must continue to reside within the township from which he was appointed in order to retain his position on the board. Further, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors of a joint township district hospital must continue to reside within the joint township hospital district in order to retain his position on the board.<sup>2</sup>

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[i]f by reason of the nonacceptance, death, or removal of a person chosen to an office in any township at the regular election, or if there is a vacancy from any other cause, the board of township trustees shall appoint a person having the qualifications of an elector to fill such vacancy for the unexpired term or until a successor is elected.

R.C. 503.241 further states that

[w]henver any township officer *ceases to reside in the township*, or is absent from the township for ninety consecutive days, except in case of sickness or injury as provided in this section, *his office shall be deemed vacant* and the board of township trustees shall declare a vacancy to exist in such office. (Emphasis added.)

Accordingly, R.C. 503.24 and R.C. 503.241, and the statutory predecessors thereto, have been construed as requiring a candidate for township trustee to reside within the township where he seeks office, *State ex rel. Nichols v. Vinton County Board of Elections*, 20 Ohio St. 3d 1, 2, 484 N.E.2d 690, 690 (1985), and, once elected, maintain residency within that township, 1946 Op. No. 764 (syllabus, paragraph two); 1939 Op. Att'y Gen. No. 820, vol. II, p. 1048; 1924 Op. Att'y Gen. No. 1792, vol. I, p. 525 (syllabus, paragraph one).

<sup>2</sup> This conclusion is, furthermore, compatible with the conclusion set forth recently in 1988 Op. Att'y Gen. No. 88-057. In Op. No. 88-057 I was asked whether an individual who is a resident of the county at the time he is elected to serve upon that county's board of county commissioners may continue to serve upon the board following a change of residence to an adjoining county. There I was constrained to conclude that such an individual may continue to serve as county commissioner because there is, in the first instance, neither a constitutional nor statutory provision that requires that a person be a county resident in order to hold the office of county commissioner. Op. No. 88-057 at 2-286 ("[i]t might be argued that a commissioner's responsibilities are of such nature that they should be performed by a resident of the county...[t]here is, however, no constitutional or statutory provision imposing a residency requirement upon one who holds the office of county commissioner"). See generally *State ex rel. Jeffers v. Sowers*, 171 Ohio St. 295, 170 N.E.2d 428 (1960); 1950 Op. Att'y Gen. No. 1870, p. 339. R.C. 513.16, on the other hand, does require that an individual reside within either a particular township or the joint township hospital district at the time of his appointment to the board of hospital governors of a joint township district hospital. On balance, therefore, the argument in support of continued residency on the part of an individual who is appointed or elected to a particular public office or position has more force in those instances in which residency is, at the outset, a condition for being appointed or elected to such office or position, and much less force in those situations in which that is not the case.

I consider next whether a vacancy is created upon the board of hospital governors of a joint township district hospital whenever a member of the board ceases to reside within the township from which he was appointed, or within the joint township hospital district; and, if so, whether the joint township district hospital board must formally remove such board member before making a new appointment to the board of hospital governors. In R.C. 513.16 the General Assembly has recognized that vacancies may occur upon the board of hospital governors by specifying the method by which new appointments shall be made to fill those vacancies. Thus, R.C. 513.16 states that, "[a]ny vacancy shall be filled by an appointment, in like manner, for the unexpired term of the original appointment." R.C. 513.16 does not, however, further define the term, "vacancy," as used therein, or otherwise describe the particular circumstances in which such a vacancy shall be deemed to exist. In accordance with the rule stated in R.C. 1.42, therefore, such term "shall be read in context and construed according to the rules of grammar and common usage." See generally *State ex rel. Flex v. Gwin*, 20 Ohio St. 2d 29, 30, 252 N.E.2d 289, 291 (1969) ("[t]he term 'vacancy,' in relation to public office, is not subject to any technical definition or meaning").

*Black's Law Dictionary* (5th ed. 1979) provides the following definition of the term, "[v]acancy," at 1388:

A place or position which is empty, unfilled, or unoccupied. An unoccupied or unfilled post, position, or office. An existing office, etc., without an incumbent. The state of being destitute of an incumbent, or a proper or legally qualified officer. *The term is principally applied to an interruption in the incumbency of an office, or to cases where the office is not occupied by one who has a legal right to hold it and to exercise the rights and perform the duties pertaining thereto.* The word "vacancy," when applied to official positions, means, in its ordinary and popular sense, that an office is unoccupied, and that there is no incumbent who has a lawful right to continue therein until the happening of a future event, though the word is sometimes used with reference to an office temporarily filled. (Emphasis added.)

An "[i]ncumbent" is also defined as "[a] person who is in present possession of an office; one who is legally authorized to discharge the duties of an office." *Id.* at 691. Thus, as a general matter, a particular public office or position is vacant whenever the incumbency of such office or position has been interrupted, or whenever such office or position ceases to be occupied by an individual who is otherwise qualified to hold that office or position, and legally entitled to exercise the duties, powers, and responsibilities pertaining thereto. See, e.g., *State ex rel. Barton v. McCracken*, 51 Ohio St. 123, 129, 36 N.E. 941, 943 (1894) ("[i]n contemplation of law there can be no vacancy in an office so long as there is a person in possession of the office legally qualified to perform the duties"). See also *State ex rel. Hoyt v. Metcalfe*, 80 Ohio St. 244, 263, 88 N.E. 738, 742 (1909) (a public office cannot be regarded as vacant so long as it is filled by someone who is lawfully entitled to such office).

The General Assembly has, in a variety of instances, described the specific circumstances in which a particular public office or position shall be considered vacant. See Ohio Const. art. II, §27 ("[t]he election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law"). R.C. 305.03(A), for example, states that, "[w]henver any county officer fails to perform the duties of his office for ninety consecutive days, except in case of sickness or injury as provided in [R.C. 305.03(B) and (C)], his office shall be deemed vacant." R.C. 305.03(B) further provides that whenever any county officer is absent because of sickness or injury, "he shall cause to be filed with the board of county commissioners a physician's certificate of his sickness or injury," and if such a certificate "is not filed with the board within ten days after the expiration of ninety consecutive days of absence, his office shall be deemed vacant." Finally, R.C. 305.03(C) states that whenever a county officer files a physician's certificate in accordance with R.C. 305.03(B), "but continues to be absent for an additional thirty days commencing immediately after the last day on which this certificate may be filed under [R.C. 305.03(B)], his office shall be deemed

vacant." *See also* R.C. 305.02(B) (describing the procedure to be followed in the event of a vacancy in certain county offices where such vacancy occurs "because of the death, resignation, or inability to take the office of an officer-elect whose term has not yet begun").

R.C. 503.24, R.C. 503.241, and R.C. 503.27 similarly address vacancies in township offices. R.C. 503.241 states that, "[w]henver any township officer ceases to reside in the township, or is absent from the township for ninety consecutive days, except in case of sickness or injury as provided [herein]," his office shall be deemed vacant. As in the case of R.C. 305.03(B), R.C. 503.241 further provides for the filing of a physician's certificate by a township officer who is absent because of sickness or injury. Vacancies in township offices are to be declared by the board of township trustees, and filled thereby in the manner set forth in R.C. 503.24. *Id.* R.C. 503.24 in turn states that the appointment procedures therein described shall be followed "[i]f, by reason of the nonacceptance, death, or removal of a person chosen to an office in any township at the regular election, or if...from any other cause," there is a vacancy in a township office. Finally, R.C. 503.27 states that a vacancy exists if a person who has been elected or appointed to a township office "fails to take the oath of office and give bond within the time required," because in such circumstance "he is deemed to have refused the office."

As the foregoing statutory enumeration demonstrates, the General Assembly has recognized that a vacancy in a public office or position may result from several different events, including an officeholder's death, physical disability, absence, change in residency, resignation, removal from office, or nonacceptance of office. The essential point, however, is that each such event or occurrence represents a hiatus in the incumbency of a public office or position, which, in turn, is attributable to the officeholder's inability to lawfully hold or occupy the position in question, and to lawfully exercise the powers and prerogatives that accompany such position.

Accordingly, I am of the opinion that a change of residency on the part of a member of the board of hospital governors of a joint township district hospital may create a vacancy on the board. I have already concluded that an individual who is appointed as a township elector to the board of hospital governors must be a resident of the township from which he is appointed, and must continue to reside within that township in order to retain his position on the board. Similarly, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors must be a resident of the joint township hospital district, and must continue to reside within the district in order to retain his position on the board. It is, therefore, apparent that residency within the township or within the joint township hospital district qualifies an individual to be appointed to and to serve upon the board of hospital governors as a township elector or joint township hospital district elector-at-large respectively. Conversely, a board member who ceases to reside within the township from which he was appointed or within the joint township hospital district is disqualified from serving upon the board. Such individual is, in other words, no longer lawfully entitled to occupy a position on the board of hospital governors, and to exercise the duties, powers, and responsibilities conferred upon duly appointed board members by R.C. Chapter 513. Clearly, in such circumstance a vacancy is created upon the board of hospital governors as effectively as if the individual in question had died, or had formally resigned his position on the board.

Thus, I conclude that under R.C. 513.16, a vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a township elector ceases to reside within the township from which he was appointed. Similarly, a vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a joint township hospital district elector-at-large ceases to reside within the joint township hospital district.

Finally, the question remains whether the joint township district hospital board, before making a new appointment to the board of hospital governors, must formally remove a board member who, by reason of a change in residency, is no longer qualified to serve upon the board of hospital governors. In this regard, R.C. 513.16 states that the joint township district hospital board may, "by a majority vote of its members, remove any hospital governor for good and sufficient cause, after a hearing upon written charges." The preceding discussion regarding a vacancy that is



created upon the board of hospital governors by reason of a board member's change of residency also provides the answer to this particular question. A vacancy that is created upon the board of hospital governors by reason of a board member's change of residency means that the board position in question is no longer held or occupied by an individual who is lawfully entitled or authorized to hold such position. In that instance, therefore, the removal procedure otherwise provided for under R.C. 513.16 has no logical application for the simple reason that the board member in question cannot be removed from a position that, by operation of law, he no longer holds or occupies. *See, e.g., State ex rel. Boda v. Brown*, 157 Ohio St. at 373, 105 N.E.2d at 646 ("a clear cut distinction exists between a case involving the removal of a public officer as contemplated by the Constitution and a case in which an official becomes disqualified by a provision of law from continuing in the office he holds," and thus concluding that the question whether a certain public officer was improperly removed from his public position was not at issue insofar as the evidence demonstrated that such individual had, prior to the alleged removal, already been disqualified by operation of law from continuing in the position to which he had been appointed). *Cf.* 1965 Op. Att'y Gen. No. 65-70 (syllabus, paragraph two) (construing R.C. 503.241, and concluding that the "failure of a member of a board of township trustees to regularly attend the meetings of such board and to properly discharge his duties does not result in a vacancy in such office, but it may be ground for removal of such township officer under [R.C. 3.07 (forfeiture of office for misconduct in office)]"). Thus, whenever a vacancy exists upon the board of hospital governors of a joint township district hospital by reason of a board member's change of residency, the joint township district hospital board shall, pursuant to R.C. 513.16, fill such vacancy by an appointment, in the manner therein provided, for the unexpired term of the original appointment.

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

1. Pursuant to R.C. 513.16, an individual who is appointed as a township elector to the board of hospital governors of a joint township district hospital must reside within the township from which he is appointed.
2. Pursuant to R.C. 513.16, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors of a joint township district hospital must reside within the joint township hospital district.
3. Pursuant to R.C. 513.16, an individual who is appointed as a township elector to the board of hospital governors of a joint township district hospital must continue to reside within the township from which he was appointed in order to retain his position on the board.
4. Pursuant to R.C. 513.16, an individual who is appointed as a joint township hospital district elector-at-large to the board of hospital governors of a joint township district hospital must continue to reside within the joint township hospital district in order to retain his position on the board.
5. A vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a township elector ceases to reside within the township from which he was appointed.
6. A vacancy exists upon the board of hospital governors of a joint township district hospital whenever an individual who has been appointed to the board as a joint township hospital district elector-at-large ceases to reside within the joint township hospital district.
7. Whenever a vacancy exists upon the board of hospital governors of a joint township district hospital by reason of a board member's change of residency, the joint township district hospital board shall, pursuant to R.C. 513.16, fill such vacancy by