

April 22, 2019

The Honorable Gary L. Lammers  
Putnam County Prosecuting Attorney  
336 E. Main St., Suite B  
Ottawa, Ohio 45875

SYLLABUS:

2019-016

Neither the Putnam County Board of Commissioners nor any other county officer has authority to appoint a board to operate a county home health care and hospice service as a separate and independent county board or agency.



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OPINION NO. 2019-016

The Honorable Gary L. Lammers  
Putnam County Prosecuting Attorney  
336 E. Main St., Suite B  
Ottawa, Ohio 45875

Dear Prosecutor Lammers:

You have requested an opinion about the Putnam County Homecare and Hospice Agency. You ask the following questions:

1. May the board of county commissioners, or any other county officer, appoint an independent county board, which is separate from the Putnam County General Health District, to provide home health care and hospice services in the county?
2. If an independent board may be appointed, may the board take possession of the moneys already collected by the Putnam County General Health District pursuant to R.C. 3709.15, which were paid as fees for the cost of providing nursing, therapeutic, and supportive care services?

Your letter explains that the Putnam County Homecare and Hospice Agency has asked the Putnam County Board of Commissioners to appoint an independent county board to operate it.<sup>1</sup>

As a creature of statute, a board of county commissioners has only those powers conferred expressly by statute or implied as necessary to carry out an express power.<sup>2</sup> 2018 Op. Att’y Gen. No.

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<sup>1</sup> The Putnam County Homecare and Hospice Agency is currently operated under the authority of the board of health of the Putnam County general health district. Pursuant to R.C. 3709.15, the board of health of a general health district may provide “nursing care and other therapeutic and supportive care services to maintain an ill or infirm person in a place of residence used as such person’s home or elsewhere.” *See generally* 2015 Op. Att’y Gen. No. 2015-017, at 2-178. A general health district is not a county office, but is a separate political subdivision of the state. *Id.* at 2-179.

2018-007, at 2-62 to 2-63. No statute confers express or implied authority on a board of county commissioners to appoint a board to operate a county home health care and hospice service as a separate and independent county board or agency. Similarly, we have been unable to find any statute that confers that authority on another county officer. Therefore, neither the Putnam County Board of Commissioners nor any other county officer has authority to appoint a board to operate a county home health care and hospice service as a separate and independent county board or agency. Our answer to your first question renders your second question moot.

Based on the foregoing, it is my opinion, and you are hereby advised that neither the Putnam County Board of Commissioners nor any other county officer has authority to appoint a board to operate a county home health care and hospice service as a separate and independent county board or agency.

Respectfully,



DAVE YOST  
Ohio Attorney General

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<sup>2</sup> Putnam County has not adopted an alternative form of county government pursuant to Ohio Const. art. X, §1 or a charter pursuant to Ohio Const. art. X, §3. Therefore, this opinion only applies to non-charter, statutory counties.