

necessary repairs to abate such nuisance, and such action will not operate to vest title to such sewer in such municipality.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

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2343.

APPROVAL, BONDS OF MOGADORE VILLAGE SCHOOL DISTRICT,  
SUMMIT COUNTY, OHIO, \$1,800.00.

COLUMBUS, OHIO, March 6, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2344.

APPROVAL, BONDS OF ALLIANCE CITY SCHOOL DISTRICT, STARK  
COUNTY, OHIO, \$2,800.00.

COLUMBUS, OHIO, March 6, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2345.

APPROVAL, BONDS OF WASHINGTON RURAL SCHOOL DISTRICT,  
SCIOTO COUNTY, OHIO, \$3,500.00.

COLUMBUS, OHIO, March 6, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2346.

DOCTOR—BOARD OF TRUSTEES MAY NOT APPOINT MEMBER  
THEREOF AS CONSULTING SURGEON OF DISTRICT TUBERCU-  
LOSIS HOSPITAL.

COLUMBUS, OHIO, March 6, 1934.

**SYLLABUS:**

*A doctor who is a trustee of a District Tuberculosis Hospital may not be appointed by the Board of Trustees to serve as consulting surgeon of such hospital.*

COLUMBUS, OHIO, March 6, 1934.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“I desire your opinion on the following question:

Doctor E has been, for a number of years, consulting surgeon on the staff of the District Tuberculosis Hospital. He was recently appointed a member of the board of trustees of the hospital. As consulting surgeon he has frequently performed operations on inmates of the hospital, the charges for which were not paid by the hospital board, but in some cases were paid by the county in which the inmate had a settlement.

Since the doctor has become a trustee of the hospital, would it be proper for him to collect fees for such services where same are paid from the poor relief funds of the county in which the inmate has a settlement?”

As I view the question involved from the statement of facts presented, the underlying question is not whether Doctor E has or has not “an interest” in the contracts for personal and professional services rendered, but it is whether or not a trustee of a District Tuberculosis Hospital may serve as consulting surgeon for such hospital.

Section 3148, General Code, authorizes the establishment of District Tuberculosis Hospitals.

Section 3150, General Code, provides for the appointment, term and tenure of the trustees of such hospitals, such trustees to be appointed by the joint board of county commissioners comprising the district. This section provides in toto:

“As soon as possible after organization, the joint board shall appoint a board of trustees to consist of one member from each county represented. Such trustees shall hold their offices as follows: One for one year, one for two years, and where three counties are represented, one for three years, and, where four counties are represented, one for four years, and where five counties are represented, one for five years, and annually thereafter the joint board of commissioners shall appoint one trustee for a term of as many years as there are counties represented, and until his successor is appointed and qualified. Any vacancy shall be filled by an appointment in like manner for the unexpired term of the original appointment. The joint board of commissioners may remove any trustee for good and sufficient cause after a hearing upon written charges.”

Section 3151, General Code, relating to the powers and duties of such trustees, provides as follows:

“Subject to the provisions of this chapter, such board of trustees shall prepare plans and specifications and proceed to erect and furnish the necessary buildings for a district hospital for tuberculosis. They shall appoint a suitable person medical superintendent of the hospital, who shall not be removed except for cause, and, upon the recommendation of the superintendent, such nurses and other employes as may be neces-

sary for the proper conduct of the hospital. The trustees shall fix the compensation of the medical superintendent and other employes. Subject to the rules and regulations prescribed by the board of trustees, the superintendent shall have entire charge and control of the hospital. The trustees shall serve without compensation, but their necessary expense when engaged in the business of the board shall be paid. The trustees, medical superintendent or nurses of such hospital are authorized to attend conferences where the care, treatment or prevention of tuberculosis is a subject for consideration."

The Board of Trustees of the District Tuberculosis Hospital, is thus vested with the general management and control of such hospital. Upon the recommendation of a medical superintendent, who is appointed by the Board of Trustees, nurses and other employees necessary for the proper conduct of the hospital, may be appointed.

Doctor E is now serving as consulting surgeon and was evidently appointed by the trustees of this District Tuberculosis Hospital even though he is now a member of such Board of Trustees. Although he receives no regular salary, and his bills for personal and professional services rendered are not paid by the hospital, but by the separate counties comprising the district, still it is against the settled public policy of this state to allow an appointing officer or members of an appointing body to appoint a member of that body for the performance of personal or professional services.

In Opinions of the Attorney General for 1918, Vol. 2, p. 1676, at p. 1677, 23 Am. and Eng. Ency. of Law, p. 348, was quoted with approval. It states:

"On the ground of public policy, it has been held that the person or member of the collective body invested with appointing power can not be appointed."

There are numerous authorities which could be cited for this proposition, but it is sufficient to say that in the former opinions of this office such has always been uniformly recognized as the rule obtaining in Ohio, unless the General Assembly gives its expressed consent to such appointments.

Consequently, it is my opinion that, a doctor who is a trustee of a District Tuberculosis Hospital may not be appointed by the Board of Trustees to serve as consulting surgeon of such hospital.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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2347.

APPROVAL, BONDS OF CITY OF CAMPBELL, MAHONING COUNTY,  
OHIO, \$23,496.55.

COLUMBUS, OHIO, March 7, 1934.

*Retirement Board. State Teachers Retirement System, Columbus, Ohio.*