

1025.

VILLAGE HOSPITAL—COUNCIL MAY REGULATE BOARD TO MANAGE SUCH INSTITUTION—CREATING BOARD BEFORE HOSPITAL'S COMPLETION AUTHORIZED—WHERE POWER TO FIX EMPLOYEES' COMPENSATION RESTS.

SYLLABUS:

1. *When a hospital is erected in a village, council is required to provide for the management of same under the provisions of Section 4356 of the General Code. In making such provision, council may authorize the appointment of a board or other officers for definite terms or otherwise, to manage such institution and fix their compensation under the provisions of Section 4219 of the General Code.*

2. *Any such managing board created may not perform the functions of the board of hospital commissioners created under the provisions of Section 4023, General Code. However, by proper action of council, a board can be created to operate the hospital before the same is fully completed.*

3. *Council may not authorize a board created for the purpose of operating the hospital to fix the compensation of officers or employes named by the board for the reason that Section 4219, General Code, requires that council shall fix the compensation of all officers and employes.*

COLUMBUS, OHIO, October 15, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your recent communication reads:

“Section 4023 G. C., et seq., provides for a board of hospital commissioners when a municipality determines to erect a hospital. Section 4035 G. C., provides that the Director of Public Safety shall have the entire management and control of such hospital when completed and ready for use. No mention is made in this section of management and control of a hospital erected in a village. Section 4356 G. C., provides that in villages the council shall provide by resolution or ordinance, for the care, supervision and management of hospitals, etc.

Question 1. When a hospital is erected in a village, may council provide for a board of commissioners to manage, and operate; such hospital after its completion?

Question 2. May a village council legally provide that such commission be appointed for a definite term?

Question 3. May council legally provide that such commission be appointed by the mayor, subject to confirmation by council?

Question 4. May council legally provide compensation for such commission?

Question 5. If such board may be created for the purpose of managing the hospital, may it succeed the board of hospital commissioners created under the provisions of Section 4023 G. C., before such hospital is entirely completed and ready for use?

Question 6. May council provide that such board of hospital commissioners created for the purpose of operating the hospital, shall have authority to employ a superintendent and fix the compensation for such officer subject to confirmation by council?”

Sections 4021 to 4036, inclusive of the General Code, relate to the subject of municipalities constructing a hospital. The general provisions of said sections apply to both cities and villages. However, as stated in your communication, Section 4035 in clear and unambiguous language provides that upon completion of such hospital the director of public safety shall have the entire management and control of the same and may employ a superintendent, steward, physicians, nurses and such other employes as he deems necessary and fix the compensation of all persons so employed subject to the approval of the council. However, as suggested in your communication, this section applies only to cities for the reason that a village does not have a director of public safety.

Section 4356 of the General Code, to which you refer, provides in part as follows:

“The council shall provide by resolution or ordinance for the care, supervision, and management of all public parks, * * * hospitals * * * or any of such institutions owned, maintained or established by the village. * * * ”

The sections hereinbefore referred to which authorize the establishment of such hospitals being silent as to the management of such institutions in the case of villages, it follows that Section 4356, supra, must of necessity govern. The broad power is contained in such section for the council to provide for such supervision.

Naturally in the supervising of such institutions, it is necessary to have administrative heads. It follows that provision should be made for some official to be vested with power and control of such management similar to a safety director, or if council thinks it wise, it could no doubt create a commission to manage such an institution. The method, of course, is a matter of discretion lodged in the village council. In making such provision, undoubtedly the council would be governed by the provisions of Section 4219 of the General Code, which reads:

“Council shall fix the compensation and bonds of all officers, clerks and employes in the village government, except as otherwise provided by law. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which any officer, clerk or employe may have been elected or appointed. Members of council may receive as compensation the sum of two dollars for each meeting, not to exceed twenty-four meetings in any one year.”

The section last quoted is authority for council to provide for all officers, clerks and employes in the village government “except as otherwise provided by law.” In the case of a manager for a village hospital, there are no other provisions of law applicable to the situation. It must therefore be concluded that under the provisions of Sections 4356 and 4219, General Code the authority exists for council to provide for the supervision of a village hospital and to provide for the necessary officers and employes to accomplish said purpose. This would imply the power to provide for the appointment and to fix the terms of such officer, duties, and compensation and all things necessary in order to carry out the express power granted to provide for the supervision of such an institution. It is further believed that council may make such conditions relative to the appointment and confirmation as to it seems advisable.

In view of this discussion, I am of the opinion that your first four inquiries should be answered in the affirmative.

In considering your fifth question as to whether, in the event council provides for a managing board, said board may succeed the hospital commissioners created under the provisions of Section 4023, before the hospital is entirely completed, it may be

said that there is no authority for council to provide a board to succeed in any manner the board created to construct such hospital. That board must necessarily function until its duties are completed. Of course, the members of such a board may have unexpired terms at the time of the completion of the hospital, but when the duties are completed, the terms would automatically expire. While it would seem that council would have no authority to appoint a commission or create a managing board which would in any wise perform the functions of the building commission, I see no objection to the creation of such a board before the building is fully completed. In other words, if the building has reached such a state of completion as to enable it to be used for hospital purposes, there appears to be no valid reason why the managing heads could not be provided for and function prior to its actual completion.

It is believed that your sixth question relative to whether or not council may authorize a board of hospital commissioners created for the purpose of operating a hospital, to employ a superintendent and fix his compensation, must be answered in the negative for the reason that Section 4219, supra, seems to clearly imply that council shall fix the compensation. If the compensation were to be fixed by the board, clearly such action would be a violation of the provisions of Section 4219, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1026.

APPROVAL, BONDS OF VILLAGE OF LONDON, MADISON COUNTY—
\$20,690.00.

COLUMBUS, OHIO, October 15, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

1027.

APPROVAL, BONDS OF LUCAS COUNTY—\$8,620.00.

COLUMBUS, OHIO, October 15, 1929.

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

1028.

APPROVAL, BONDS OF LUCAS COUNTY—\$20,190.00.

COLUMBUS, OHIO, October 15, 1929.

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