

OPINION NO 70-114

Syllabus:

A board of governors of a joint township hospital may not charge a higher daily room rate to patients who reside outside the joint township hospital district than is charged to patients residing within said district.

To: H. Michael Moser, Auglaize County Pros. Atty., Wapakoneta, Ohio
By: Paul W. Brown, Attorney General, August 31, 1970

I have before me your request for my opinion on the question of whether a board of governors of a joint township district hospital, created under Chapter 513, Revised Code, may charge a higher daily room rate to patients who reside outside the joint township hospital district than is charged to patients residing within said district.

Section 513.12, Revised Code, states in part as follows:

"All necessary expenses for the operation of such hospital may be paid out of any moneys derived from the special levy approved for such purposes by such voters, or out of any other moneys received from hospital income or services rendered, or from unencumbered funds from any other source. The board of township trustees of the townships participating in such district may appropriate and pay over to the joint township hospital board, for maintenance of such hospital, any unencumbered funds of the township. * * *"
(Emphasis added)

Section 513.17.1, Revised Code, provides, inter alia, that the board of governors shall appoint a superintendent who " * * * shall prepare and submit to the board of governors, quarterly, a statement showing the average daily per capita cost for the current expense of maintaining and operating such hospital, * * *"

A review of Chapter 513, supra, fails to reveal any guidelines relating to daily room rates for patients, nor does any authority appear in the statutes for discriminating between resident and non-resident patients.

In the case of Johnson v. Grunkemyer, 11 O.D. 412 (1901), it was held that county commissioners and township trustees are quasi corporations and their powers must be strictly construed. Furthermore, in the case of Trustees of New London Twp. v. Miner, et al., 26 Ohio St. 452 (1875), the court held that trustees can exercise only those powers conferred by statute, or such others as are necessarily to be implied from those granted, in order to enable them to perform the duties imposed upon them. The joint township district hospital board and the board of hospital governors are, in part, creatures of the township trustees and are therefore subject to the same limitations. No power to

set fees between different classes of hospital patients being conferred by statute or necessarily implied therefrom, they therefore do not have such power.

Therefore, in view of the foregoing, it is my opinion and you are hereby advised that a board of governors of a joint township hospital may not charge a higher daily room rate to patients who reside outside the joint township hospital district than is charged to patients residing within said district.