

OPINION NO. 92-048**Syllabus:**

1. Pursuant to R.C. 339.02(C), an individual selected to serve upon a board of county hospital trustees must be an elector of, and thus reside within, the area served by the county hospital, as defined in R.C. 339.02(A).
 2. Pursuant to R.C. 339.02(C), an individual appointed to serve upon a board of county hospital trustees must remain an elector of, and thus continue to reside within, the area served by the county hospital, as defined in R.C. 339.02(A), in order to continue to serve upon the board of county hospital trustees.
 3. An individual who is a resident of the county at the time he is appointed to serve upon the board of trustees of a county hospital in that county, and who thereafter becomes a resident of another county during his tenure as a board member, remains eligible to serve upon the board of county hospital trustees so long as he is an elector of, and thus resides within, the area served by the county hospital, as defined in R.C. 339.02(A).
-

To: David W. Norris, Portage County Prosecuting Attorney, Ravenna, Ohio
By: Lee Fisher, Attorney General, September 29, 1992

You have requested an opinion regarding the eligibility of an individual to serve upon the board of trustees of a county hospital established and operated in accordance with the provisions of R.C. Chapter 339. Specifically, you wish to know whether a duly appointed member of a board of county hospital trustees remains eligible to serve upon the board when that person ceases to reside within the county in which the county hospital is physically located, and becomes a resident of a county adjacent to that county.

Appointment of a Board of County Hospital Trustees

R.C. Chapter 339 authorizes a board of county commissioners to "purchase, acquire, lease, appropriate, and construct a county hospital or hospital facilities thereof." R.C. 339.01(C). R.C. 339.02 further provides for the appointment of a board of county hospital trustees, which is to be responsible for, *inter alia*, managing and operating the county hospital. See R.C. 339.03 (powers and duties of board of county hospital trustees); R.C. 339.06 ("[t]he board of county hospital trustees shall, upon completion of construction or leasing and equipping of the county hospital, assume and continue the operation of such hospital. The board shall have the entire management and control of the hospital"). R.C. 339.02 states, in relevant part, as follows:

(B) Unless a *board of county hospital trustees* for the county is in existence in accordance with this section, such board *shall be created pursuant to this section* after the board of county commissioners first determines by resolution to establish a county hospital. Copies of such resolution shall be certified to the probate judge of the county senior in point of service and to the judge, other than a probate judge, of the court of common pleas of the county senior in point of service.

(C) The *board of county commissioners* together with the probate judge of the county senior in point of service and the judge of the court of common pleas of the county senior in point of service *shall*, within ten days after such certification, *appoint a board of county hospital trustees. The board of county hospital trustees shall be composed of six electors of the area served by the hospital* unless the board of county commissioners determines that the board of trustees can more effectively function with eight or ten trustees in which case *there may be eight or ten trustees*, as designated by the board of county commissioners. (Emphasis added.)

Accordingly, pursuant to R.C. 339.02(C), a board of county hospital trustees shall be composed of either six, eight, or ten electors of the area served by the hospital. See R.C. 339.02(D) (when the board of county hospital trustees is expanded to eight or ten members, those additional trustees shall be electors of the area served by the hospital). R.C. 339.02(A) further states that the phrase "area served by the hospital," as used in R.C. 339.02, means "the geographic area, whether or not included within the county, from which a county hospital regularly draws patients." See also R.C. 339.02(E) ("[n]otwithstanding any other provision of [R.C. 339.02], no more than two members of the board shall be electors of the area served by the hospital that is outside the county in which the hospital is located").

Residency Requirements for County Hospital Trustees

You have asked whether an individual previously appointed to a board of county hospital trustees remains eligible to serve upon the board when that person ceases to reside within the county in which the county hospital is physically situated,

and becomes, instead, a resident of a county adjacent thereto. In your letter you state that the county hospital draws approximately one percent of its patients on an annual basis from that adjacent county. Your inquiry presents two issues: whether an individual's place of residency must be considered in evaluating that person's eligibility for appointment to a board of county hospital trustees, and, if so, whether, and in what circumstances, a change of residence on the part of a board member may affect that person's eligibility to continue as a member of the board.

R.C. 339.02(C) provides, in pertinent part, that a board of county hospital trustees appointed thereunder "shall be composed of six [, eight, or ten] *electors* of the area served by the hospital." (Emphasis added.) Neither R.C. 339.02(C) nor any other division of R.C. 339.02 includes an express reference to an individual's place of residence vis-a-vis that person's eligibility for appointment to the board. However, similar language appears in R.C. 513.16 to specify the categories of persons eligible for appointment to the board of hospital governors of a joint township district hospital: "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.'" (Emphasis added.)

The foregoing language of R.C. 513.16 was analyzed and discussed in 1989 Op. Att'y Gen. No. 89-060 with regard to the question whether the place of residency of a prospective appointee to the board of hospital governors of a joint township district hospital would have a bearing upon that person's eligibility for such appointment. Noting initially the absence of an express residency requirement in R.C. 513.16, Op. No. 89-060 found a residency requirement implicit in R.C. 513.16's use of the term "elector," according that term the meaning it has in those provisions of the Ohio Constitution and Revised Code that govern the conduct of elections and the larger electoral process. Op. No. 89-060 thus analyzed the question, and reasoned as follows:

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.

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.

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.

Id. at 2-254 and 2-255.

It is appropriate to apply the same construction to the term "elector," as used in R.C. 339.02(C), in the case of those persons who are appointed to comprise a board of county hospital trustees. Thus, persons selected to serve upon a board of county hospital trustees must, as electors, be residents of the area served by the county hospital.¹ As noted previously, R.C. 339.02(A) defines "area served by the hospital" as the geographic area, whether or not included within the county, from which a county hospital regularly draws patients.²

Continuity of the Residency Requirement

R.C. 339.02(C)'s residency requirement is also continuing in nature, such that a properly appointed member of a board of county hospital trustees must remain a resident (*i.e.*, an "elector") of the area served by the hospital, as defined in R.C. 339.02(A), in order to continue to serve upon the board. R.C. 339.02(C) states, in pertinent part, that a board of county hospital trustees "shall be composed of" six, eight, or ten electors. This means that an individual's eligibility to serve upon the board, following an appointment thereto, is contingent upon that person remaining a resident (*i.e.*, an "elector") of the area served by the hospital.

Accordingly, a member of a board of county hospital trustees who was a resident of the area served by the hospital when he became a board member is not

¹ Those persons must, of course, also satisfy the pertinent citizenship, age, and voter registration requirements of Ohio Const. art. V, §1 and R.C. 3503.01 in order to qualify as "electors" of the area served by the hospital.

² From this definition it is reasonable to presume that the "area served by the hospital" ordinarily will include the entire geographic area of the county in which the county hospital is located. It may also include territory outside the geographic boundaries of the county in which the county hospital is located. As a practical matter, that territory will, in most instances, be situated within one or more adjacent, adjoining, or contiguous counties.

longer eligible to serve upon the board when he becomes a resident of the geographic area that is not served by the hospital, as specified in R.C. 339.02(A). In particular, such individual is no longer eligible to serve upon the board of county hospital trustees when he becomes a resident of the geographic area from which the county hospital does not regularly draw patients. On the other hand, a qualified member of a board of county hospital trustees who thereafter becomes a resident of another county during his tenure as a board member remains eligible to serve upon the board so long as that person is a resident (*i.e.*, an "elector") of the area served by the hospital, as defined in R.C. 339.02(A). Thus, such individual remains eligible to serve upon the board of county hospital trustees so long as he resides within the geographic area from which the county hospital regularly draws patients.³

Conclusion

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

1. Pursuant to R.C. 339.02(C), an individual selected to serve upon a board of county hospital trustees must be an elector of, and thus reside within, the area served by the county hospital, as defined in R.C. 339.02(A).
2. Pursuant to R.C. 339.02(C), an individual appointed to serve upon a board of county hospital trustees must remain an elector of, and thus continue to reside within, the area served by the county hospital, as defined in R.C. 339.02(A), in order to continue to serve upon the board of county hospital trustees.
3. An individual who is a resident of the county at the time he is appointed to serve upon the board of trustees of a county hospital in that county, and who thereafter becomes a resident of another county during his tenure as a board member, remains eligible to serve upon the board of county hospital trustees so long as he is an elector of, and thus resides within, the area served by the county hospital, as defined in R.C. 339.02(A).

³ In your letter you ask specifically about a member of a board of county hospital trustees who becomes a resident of a county that is adjacent to the county in which the county hospital is located. You state that the county hospital draws approximately one percent of its patients on an annual basis from the adjacent county. R.C. 339.02(A) does not expressly state that a county hospital must regularly draw a minimum number or certain percentage of its total patients from a geographic area in order for that area to be "served by the hospital." However, the reasonable inference from the language of R.C. 339.02(A) is that a particular geographic area that provides patients to a county hospital only very intermittently or sporadically cannot be considered an area served by the hospital for purposes of determining an individual's qualifications for appointment to the county hospital's board of trustees pursuant to R.C. 339.02(C). For example, a geographic area that provides only a few patients every several years to a county hospital probably should not be considered an area served by the hospital. In each instance, whether a county hospital regularly draws patients from a given geographic area is a determination that will depend upon the facts and circumstances of the situation in question.