

ACCOUNTING AND AUDIT GUIDE FOR PUBLICLY OWNED HOSPITALS



STATE OF MISSISSIPPI

State of Mississippi



OFFICE OF THE STATE AUDITOR
STACEY PICKERING AUDITOR

December 1, 2015

TO MISSISSIPPI PUBLIC OWNED HOSPITALS

We are pleased to provide the 2015 Hospital Audit & Accounting Guide. This guide is published by this office.

Mississippi law charges this office with prescribing various accounting procedures, policies and forms for use by all Mississippi public hospitals. Accordingly, the procedures presented in this guide are prescribed and are effective immediately.

The compliance questionnaire should be approved by the board of trustees during the last month of the fiscal year.

Special attention has been given to providing hospital officials a guide that is easy to understand and follow. This guide should be reviewed by all appropriate officials and placed on file with the board of trustees.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacey Pickering". The signature is stylized and cursive.

Auditor

TABLE OF CONTENTS

	<u>Page</u>
General Section	
Introduction	1-1
Pertinent Provisions of Law	1-2
Transmittal Letter for Financial Report	1-3
Accounting Section	
Sample Classification of Accounts for Hospitals	2-1
Legal Compliance	
Legal Compliance Questionnaire	3-1
Opinions	
Attorney General Opinions	4-1

INTRODUCTION

In accordance with applicable statutes of the State of Mississippi, including Sections 7-7-211 (b) and 7-7-211 (j), Mississippi Code 1972, Annotated, the Office of State Auditor has prescribed this accounting and auditing guide for Mississippi public hospitals.

PERTINENT PROVISIONS OF LAW DEALING WITH MISSISSIPPI PUBLICLY OWNED HOSPITALS

Pertinent laws of the State of Mississippi on public hospital accounting and auditing are included in the statutes for powers and duties of the Department of Audit, Office of the State Auditor.

A resume' of some of these statutory provisions follows.

Powers and Duties of Department of Audit

To provide best practices, for all public offices of regional and local subdivisions of the state, systems of accounting, budgeting and reporting financial facts relating to said offices in conformity with legal requirements and with generally accepted accounting principles as promulgated by nationally recognized professional organizations; to assist such subdivisions in need of assistance in the installation of such systems; to revise such systems when deemed necessary, and to report to the Legislature at periodic times the extent to which each office is maintaining such systems, along with such recommendations to the Legislature for improvement as seem desirable; [Section 7-7-211(b), Mississippi Code 1972, Annotated.]

To postaudit and, when deemed necessary, preaudit and investigate separately the financial affairs of (i) the offices, boards and commissions of county governments and any departments and institutions thereof and therein; (ii) public school districts, departments of education and junior college districts; and (iii) any other local offices or agencies which share revenues derived from taxes or fees imposed by the State Legislature or receive grants from revenues collected by governmental divisions of the state; the cost of such audits, investigations or other services to be paid as follows: Such part shall be paid by the state from appropriations made by the Legislature for the operation of the State Department of Audit as may exceed the sum of Thirty Dollars (\$30.00) per man hour for the services of each staff person engaged in performing the audit or other service, which sum shall be paid by the county, district, department, institution or other agency audited out of its general fund or any other available funds from which such payment is not prohibited by law. [Section 7-7-211(e), Mississippi Code 1972 Annotated.]

In any instances in which the State Auditor is or shall be authorized or required to examine or audit, whether preaudit or postaudit, any books, ledgers, accounts or other records of the affairs of any public hospital owned or owned and operated by one or more political subdivisions or parts thereof or any combination thereof, or any school district, including activity funds thereof, it shall be sufficient compliance therewith, in the discretion of the State Auditor, that such examination or audit be made from the report of any audit or other examination certified by a certified public accountant and prepared by or under the supervision of such certified public accountant. Such audits shall be made in accordance with generally accepted standards of auditing, with the use of an audit program prepared by the State Auditor, and final reports of such audits shall conform to

the format prescribed by the State Auditor. All files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be available, without cost, to the State Auditor for examination and abstracting during the normal business hours of any business day. The expense of such certified reports shall be borne by the respective hospital, or any available school district funds other than minimum program funds, subject to examination or audit. The State Auditor shall not be bound by such certified reports and may, in his or their discretion, conduct such examination or audit from the books, ledgers, accounts or other records involved as may be appropriate and authorized by law; [Section 7-7-211(j), Mississippi Code 1972 Annotated]

GENERAL

Guidance for audits of public hospitals may be obtained from AICPA publications such as the AICPA Audit and Accounting Guide: *Health Care Organizations*. There are various differences between the accounting and financial reporting standards for hospitals and other health care providers that are governmental and those that are not governmental. Auditors should become familiar with governmental standards for hospitals and other health care providers.

Governmental hospitals and other health care providers generally use enterprise fund accounting and financial reporting. If a hospital or other health care provider does not meet the criteria in GASB Statement No. 34, paragraph 67, requiring the use of enterprise funds, it may use either governmental fund or enterprise fund accounting and financial reporting. Often, governments do not use enterprise funds to report activities relating to the long-term institutional care of the elderly, children, and the mentally impaired because they do not meet the criteria requiring the use of enterprise funds and because user fees are not a principal revenue source for the activity. Governmental hospitals and other health care providers may have component units. The auditor should apply the concept of opinion units in planning, performing, evaluating the results of, and reporting on audits of governmental hospitals and other health care providers. Governmental hospitals and other health care providers are subject to various legal and contractual provisions that may affect their financial statements. The auditor should consider whether it is necessary to evaluate the entity's compliance with those requirements as part of the financial statement audit.

The AICPA Audit and Accounting Guide: *Health Care Organizations* includes in its scope governmental health care organizations when they issue separate financial statements using enterprise fund accounting and reporting. Thus, the auditor should consult that Guide for auditing considerations unique to those health care organizations. Further, Audit and Accounting Guide *Health Care Organizations* was cleared by the

GASB before it was issued. Therefore, the Guide constitutes accounting and financial reporting guidance for those governmental health care organizations. In practice, auditors of governmental health care organizations that issue separate financial statements using enterprise fund accounting and reporting may use Audit and Accounting Guide: *Health Care Organizations* as the primary source of guidance because that Guide addresses transactions that are unique to or prevalent in the health care industry.

Included with this guide is a standard chart of accounts that may be used as a guide in establishing a chart of accounts for a government hospital.

S A M P L E

TRANSMITTAL LETTER FOR FINANCIAL REPORTS

Office of the State Auditor
P. O. Box 956
Jackson, MS 39205

Gentlemen:

Enclosed are two (2) copies of the annual financial statements and one electronic copy of Name of Hospital for the year ended September 30, 20XX. If you require any further information, please let me know.

Sincerely,

John A. Doe
Administrator

CHART OF ACCOUNTS FOR HOSPITALS

BALANCE SHEET ACCOUNT

Account Number					
General Funds		Restricted Funds			Account Title
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	
Current Assets					
1010.00	1410.00	1510.00	1610.00	1710.00	Cash
1011.00	1411.00	1511.00	1611.00	1711.00	General checking accounts
1012.00					Payroll checking accounts
1013.00					Other checking accounts
1014.00					Imprest cash funds
1015.00	1415.00	1515.00	1615.00	1715.00	Saving accounts
1016.00	1416.00	1516.00	1616.00	1716.00	Certificates of deposit
1020.00	1420.00	1520.00	1620.00	1720.00	Marketable Securities
1021.00	1421.00	1521.00	1621.00	1721.00	U.S. government securities
1022.00	1422.00	1522.00	1622.00	1722.00	Other current investments
1030.00					Accounts and Notes Receivable
1031.00					Inpatient receivables- inhouse
1032.00					Inpatient receivables- discharged- unbilled
1033.00					Inpatient receivables- discharged- billed- self-pay
1034.00					Inpatient receivables- discharged- billed- Blue Cross
1035.00					Inpatient receivables- discharged- billed- commercial insurance
1036.00					Inpatient receivables- discharged- billed- Workmen's Compensation
1037.00					Inpatient receivables- discharged- billed- Medicare
1038.00					Inpatient receivables- discharged- billed- Medicaid
1039.00					Inpatient receivables- discharged- billed- other

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Current Liabilities (Continued)					
2071.00					Reimbursement settlement due- Medicare
2072.00					Reimbursement settlement due- Medicaid
2073.00					Reimbursement settlement due- other
2080.00	2480.00	2580.00	2680.00	2780.00	Due to Other Funds
	2481.00	2581.00	2681.00	2781.00	Due to general funds
2082.00	2482.00		2682.00	2782.00	Due to plant replacement and expansion fund
2083.00	2483.00	2583.00		2783.00	Due to specific-purpose fund
2084.00	2484.00	2584.00	2684.00		Due to endowment fund
2090.00					Income Taxes Payable
2091.00					Federal income taxes payable
2092.00					State income taxes payable
2110.00					Other Current Liabilities
2111.00					Deferred income-patient deposits
2112.00					Deferred tuition and fees
2113.00					Deferred income- other
2114.00					Dividends payable
2115.00					Bank overdrafts
2116.00					Due to parent/subsidiary/ affiliate
2117.00					Construction retention payable
2118.00					Construction contracts payable
2119.00					Other current liabilities
Deferred Credits and Other Liabilities					
2120.00					Deferred Income Taxes
2121.00					Deferred taxes payable- state
2122.00					Deferred taxes payable- federal
2130.00					Deferred Third-Party Revenue

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Current Liabilities (Continued)					
2020.00					Accounts Payable
2021.00					Trade payables
2022.00					Other accounts payable
2030.00					Accrued Compensation and Related Liabilities
2031.00					Accrued payroll
2032.00					Accrued vacation, holiday, and sick pay
2033.00					Other accrued salaries and wages payable
2035.00					Federal income taxes withheld
2036.00					Social Security taxes withheld and accrued
2037.00					State income taxes withheld
2041.00					Unemployment taxes payable
2044.00					Accrued hospitalization insurance premiums
2046.00					Union dues payable
2049.00					Other payroll taxes and deductions payable
2050.00					Other Accrued Expenses
2051.00					Interest payable
2052.00					Rent payable
2053.00					Property taxes payable
2054.00					Fees payables- medical specialists
2055.00					Fees payable- other
2056.00					Other accrued expenses payable
2060.00					Advances from Third-Party Payers
2061.00					Advances- Medicare
2062.00					Advances- other third-party payers
2070.00					Payables to Third-Party Payers

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Property, Plant, and Equipment- Historical Cost (Continued)					
1226.00					Major movable equipment
1227.00					Minor equipment
Accumulated Depreciation- Historical Cost					
1240.00					Land Improvements
1250.00					Buildings
1260.00					Leasehold Improvements
1270.00					Fixed Equipment
1280.00					Major Movable Equipment
1290.00					Minor Equipment
1310.00					Price- Level Increments
1312.00					Land improvements
1313.00					Buildings
1314.00					Leasehold improvements
1315.00					Fixed equipment
1316.00					Major movable equipment
1317.00					Minor equipment
Deferred Charges and Other Assets					
1330.00	1430.00	1530.00	1630.00	1730.00	Other Assets
1340.00				1740.00	Investment in Nonoperating Property, Plant, and Equipment
1350.00				1750.00	Accumulated Depreciation- Investments in Nonoperating Plant and Equipment
1360.00				1760.00	Other Intangible Assets
1361.00				1761.00	Goodwill
1362.00				1762.00	Unamortized borrowing cost
Current Liabilities					
2010.00					Notes and Loans Payable
2011.00					Notes and loans payable-vendors
2012.00					Notes and loans payable-banks
2013.00					Other notes and loans payable

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			Account Title
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	
Current Assets (Continued)					
1119.00					Inventory-other
1120.00					Prepaid Expenses
1121.00					Prepaid insurance
1122.00					Prepaid interest
1123.00					Prepaid rent
1124.00					Prepaid pension plan expense
1125.00					Prepaid taxes
1126.00					Prepaid service contracts
1127.00					Prepaid expenses- other
1128.00					Deposits
1129.00					Other current assets
Property, Plant, and Equipment- Historical Cost					
1130.00					Land
1140.00					Land improvements
1150.00					Buildings
1160.00					Leasehold Improvements
1170.00					Fixed Equipment
1180.00					Major Movable Equipment
1190.00					Minor Equipment
1210.00					Construction in Progress
1211.00					Building
1212.00					Fixed equipment
1213.00					Movable equipment
1214.00					Fees
1215.00					Insurance
1216.00					Interest
1220.00					Price-Level Increments
1221.00					Land
1222.00					Land improvements
1223.00					Buildings
1224.00					Leasehold improvements
1225.00					Fixed Equipment

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Current Assets (Continued)					
1066.00					Allowance for other adjustments
1067.00					Allowance- collection agency
1070.00					Receivables from Third-Party Payers
1071.00					Other receivables- third-party cost report settlement- Medicare
1072.00					Other receivables- third-party cost report settlement- Medicaid
1073.00					Other receivables- third-party cost report settlement- other
1080.00	1480.00	1580.00	1680.00	1780.00	Pledges and Other Receivables
1081.00	1481.00	1581.00	1681.00	1781.00	Pledges
1082.00	1482.00	1582.00	1682.00	1782.00	Allowance for uncollectible pledges
1083.00	1483.00	1583.00	1683.00	1783.00	Grants and legacies
1084.00					Accounts and notes receivable- staff, employees, and so forth
1085.00					Due from parent/subsidiary/ affiliate
1086.00	1486.00	1586.00	1686.00	1786.00	Other receivables
1090.00		1590.00	1690.00	1790.00	Due from Other Funds
		1591.00	1691.00	1791.00	Due from general funds
1092.00			1692.00	1792.00	Due from plant replacement and expansion funds
1093.00		1593.00		1793.00	Due from specific-purpose funds
1094.00		1594.00	1694.00		Due from endowment funds
1110.00					Inventory
1111.00					Inventory- general stores
1112.00					Inventory- pharmacy
1113.00					Inventory- central supply
1114.00					Inventory- dietary
1115.00					Inventory- plant operation and maintenance

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Current Assets (Continued)					
1041.00					Interim payment clearing account- Blue Cross
1042.00					P.I.P (periodic interim payment) clearing account- Medicare
1043.00					Interim payment clearing account- Medicaid
1044.00					Outpatient receivables- unbilled
1045.00					Outpatient receivables- billed-self-pay
1046.00					Outpatient receivables- billed-Blue Cross
1047.00					Outpatient receivables- billed-commercial insurance
1048.00					Outpatient receivables- billed-Workmen's Compensation
1049.00					Outpatient receivables- billed-Medicare
1051.00					Outpatient receivables- billed-Medicaid
1052.00					Outpatient receivables- billed-other
1053.00					Patient receivables- collection agency
1055.00					Notes receivables
1060.00					Allowance for Uncollectible Receivables and Third-Party Contractuals
1061.00					Allowance for bad debts
1062.00					Allowance for contractual adjustments- Blue Cross
1063.00					Allowance for contractual adjustments- Medicare
1064.00					Allowance for contractual adjustments- Medicaid
1065.00					Allowance for contractual adjustments- other

BALANCE SHEET ACCOUNT (Continued)

Account Number					
General Funds		Restricted Funds			
Operating	Board Designated	Plant Replacement and Expansion Fund	Specific-Purpose Fund	Endowment Fund	Account Title
Deferred Credits and Other Liabilities (Continued)					
2131.00					Deferred revenue- Medicare
2132.00					Deferred revenue- Medicaid
2133.00					Deferred revenue- other third-party reimbursement
Long-Term Debt					
2150.00				2750.00	Mortgages Payable
2160.00					Construction Loans
2170.00					Notes under Revolving Credit
2180.00					Capitalized Lease Obligations
2190.00				2790.00	Other
Fund Balances					
Not-for-Profit Hospitals					
2210.00	2410.00	2510.00	2610.00	2710.00	Fund Balances
2211.00	2411.00	2511.00	2611.00	2711.00	Fund balance
2212.00	2412.00	2512.00	2612.00	2712.00	Transfers from restricted funds for capital outlays
2213.00	2413.00	2513.00	2613.00	2713.00	Value of donated property, plant, and equipment
	2414.00	2514.00	2614.00	2714.00	Transfers to operating fund for operating purposes
2215.00					Price-level revaluation

Natural Classification of Expenses

.00	Salaries and Wages
.01	Management and supervision
.02	Technicians and specialists
.03	Registered nurses
.04	Licensed vocational (practical) nurses
.05	Aides and orderlies
.06	Clerical and other administrative employees
.07	Environment and food services employees
.08	Physicians
.09	Nonphysician medical practitioners
.10	Vacations, holiday, sick pay, and other nonworked compensation
.15	Employee Benefits
.16	F.I.C.A
.17	State unemployment insurance and federal unemployment insurance
.18	Group health insurance
.19	Pension and retirement
.20	Workmen's Compensation insurance
.21	Group life insurance
.25	Professional Fees- Medical
.27	Physicians' remuneration
.28	Therapists and other (nonphysician)
.30	Other Professional Fees
.31	Consulting and management services
.32	Legal services
.33	Auditing services
.35	
to	Supplies and Materials, Special Departmental
.44	
.45	General Supplies
.46	Office and administrative supplies
.47	Employee wearing apparel
.48	Instruments and minor medical equipment (nondepreciable)
.49	Minor equipment (nondepreciable)
.50	Other supplies and materials
.54	Purchased Services
.55	Medical- purchased services
.56	Repairs and maintenance- purchased services
.57	Medical school contracts- purchased services
.58	Management services
.59	Collection services
.60	Other purchased services

Natural Classification of Expenses (Continued)

.65	Other Direct Expenses
.66	Depreciation and amortization- land improvements
.67	Depreciation and amortization- building and improvements
.68	Depreciation and amortization- leasehold improvements
.69	Depreciation and amortization- fixed equipment
.70	Depreciation and amortization- movable equipment
.74	Rental or lease- land
.75	Rental or lease- buildings
.76	Rental or lease- fixed equipment
.77	Rental or lease- movable equipment
.78	Utilities- electricity
.79	Utilities- gas
.80	Utilities- water
.81	Utilities- oil
.82	Other utilities
.84	Insurance- professional liability
.85	Insurance- other
.87	Licenses and taxes (other than income taxes)
.88	Telephone and telegraph
.89	Dues and subscriptions
.91	Outside training sessions
.92	Travel
.93	Other direct expenses

REVENUE AND EXPENSE ACCOUNTS

Account Number		
Revenue	Expenses	Account Title
Nursing and Other Professional Services- Revenue and Expense		
	6010	Nursing Administration
	6011	Nursing- administration
	6012	Nursing- in-service education
	6013	Float nursing personnel
	6014	Central transportation
3020	6020	Nurses' Stations- Medical and Surgical Acute
3021 to 3049	6021 to 6049	Designated medical and surgical acute care units
3050	6050	Pediatric Acute
3060	6060	Psychiatric Acute
3070	6070	Other Adult and Pediatric Acute
3071	6071	Detoxification unit(s)
3072	6072	Communicable disease unit(s)
3080	6080	Obstetric (Gynecologic) Acute
3090	6090	Newborn Nursery Acute
3095	6095	Premature unit(s)
3120	6120	Intensive Care
3121	6121	Medical- surgical intensive care unit(s)
3122	6122	Pediatric intensive care unit(s)
3123	6123	Neonatal intensive care unit(s)
3124	6124	Definitive observation intensive care unit(s)
3125	6125	Psychiatric (isolation) intensive care unit(s)
3130	6130	Burn Care
3140	6140	Cardiac Care
3141	6141	Myocardial infarction unit(s)
3142	6142	Pulmonary care unit(s)
3143	6143	Heart transplant unit(s)
3150	6150	Extended (Long-Term) and Other Care+
3151	6151	Skilled nursing unit(s)
3152	6152	Rehabilitation unit(s)
+ Where formally organized day-care unit(s) and/or night-care unit(s) exist, separate accounts can be established.		

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		Account Title
Revenue	Expenses	Account Title
Nursing and Other Professional Services- Revenue and Expense (Continued)		
3153	6153	Long-term psychiatric unit(s)
3154	6154	Residential unit(s)
3156	6156	Self-care unit(s)
3160	6160	Hemodialysis
3170	6170	Respiratory Services
3171	6171	Respiratory therapy
3172	6172	Pulmonary function testing
3190	6190	Labor and Delivery Services
3191	6191	Labor room(s)
3192	6192	Delivery room(s)
3210	6210	Surgical Services
3211	6211	General surgery
3212	6212	Organ transplants
3213	6213	Open-heart surgery
3214	6214	Neurosurgery
3215	6215	Orthopedic surgery
3216	6216	Minor surgery
3217	6217	Surgical day care (mini-surgery)
3218	6218	Recovery room(s)
3230	6230	Emergency Services
3231	6231	Emergency department
3232	6232	Ambulance service
3250	6250	Central Services
3251	6251	Central services
3252	6252	Central sterile supply
4010	7010	Laboratory Services *
4011	7011	Chemistry
4012	7012	Hematology
4013	7013	Histology
4016	7016	Autopsy
4017	7017	Special procedures
4018	7018	Immunology
4019	7019	Microbiology
* The titles of the <i>Laboratory Service</i> subaccounts were adapted from those used in <i>A Workload Recording Method for Clinical Laboratories</i> , prepared by the Laboratory Management and Planning Committee of the College of American Pathologists, second edition, 1972.		

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		
Revenue	Expenses	Account Title
Nursing and Other Professional Services- Revenue and Expense (Continued)		
4021	7021	Radioisotopes
4022	7022	Procurement and dispatch
4023	7023	Urine and feces
4025	7025	Blood bank
4030	7030	Electrodiagnosis
4031	7031	Electrocardiology
4032	7032	Electromyography
4033	7033	Electroencephalography
4040	7040	Radiology- Diagnostic
4041	7041	Angiocardiography
4050	7050	Radiology- Therapeutic
4051	7051	Chemotherapy
4052	7052	Radiation therapy
4060	7060	Nuclear Medicine
4061	7061	Nuclear medicine- diagnostic
4062	7062	Nuclear medicine- therapeutic
4070	7070	Pharmacy
4080	7080	Anesthesiology
4090	7090	Rehabilitation Service
4091	7091	Physical Therapy
4092	7092	Occupational therapy
4093	7093	Speech pathology (speech therapy)
4094	7094	Recreational therapy
4120	7120	Clinic Services
4121	7121	Medical-surgical clinic
4122	7122	Eye, ear, nose, and throat clinic
4123	7123	Urology clinic
4124	7124	Obstetrics and gynecology clinic
4125	7125	Orthopedics clinic
4126	7126	Pediatrics clinic
4127	7127	Surgery clinic
4128	7128	Cardiology clinic
4129	7129	Physical medicine clinic
4131	7131	Psychiatric clinic
4150	7150	Home Health Care
4151	7151	Nursing service
4161	7161	Rehabilitation service
4170	7170	Social Services
	7180	Medical Record and Library Services
	7181	Medical records
	7182	Medical library services

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		
Revenue	Expenses	Account Title
Other Operating Revenues		
5010		Other Operating Revenues
5011		Transfers from restricted funds for research
5021		Transfers from restricted funds for education
5031		Transfers from restricted funds for other operating expenses
5041		Tuition- school of nursing
5042		Tuition- licensed vocational (practical) nursing
5045		Tuition- paramedical education
5051		Tuition- interns
5055		Tuition- residents
5061		Cafeteria
5065		Laundry and/or linen services
5071		Telephone and telegraph services
5075		Parking
5081		Television and radio rentals
5085		Medical record and abstract fees
5091		Sale of scrap and waste
5095		Vending machine commissions (net)
5151		Student housing
5152		Employee housing
5153		Nonpatient room rentals
5155		Physicians' offices and other rentals
5171		Cash discounts on purchases
5175		Rebates and refunds from vendors
5210		Services to Other organizations
5211		Purchasing
5212		Janitorial services
5213		Laundry and/or linen services
5214		Education services
5215		Management services
5216		Data processing services
5219		Other services

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		
Revenue	Expenses	Account Title
Deductions from Revenue		
5510		Provision for Bad Debts
5512		Inpatient
5513		Outpatient- referral
5514		Outpatient- clinic
5520		Contractual Adjustments
5521		Medicare
5522		Medicaid
5523		Other government program adjustments
5524		Blue Cross
5525		Other contractual adjustments
5540		Charity Services
5550		Other Deductions
5551		Personnel adjustments
5555		Administrative and policy adjustments
Other Services		
	8010	Research
	8011	Research administrative office
	8012	Hospital research projects
	8013	Joint research projects
	8014	Medical school research projects
	8020	Nonphysician Education
	8021	School of nursing- administrative office
	8022	Registered nurse program
	8023	Licensed vocational (practical) nurse program
	8030	Medical Staff Service and Education
	8031	Voluntary medical staff
	8032	Paid medical staff
	8033	Medical graduate education
	8034	Interns
	8035	Residents
General Services		
	8050	Dietary Service
	8051	Kitchen
	8052	Patient food service
	8053	Cafeteria
	8060	Plant Operation and Maintenance Services
	8061	Plant maintenance
	8062	Carpentry
	8063	Plumbing

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		
Revenue	Expenses	Account Title
General Service (Continued)		
	8064	Painting
	8065	Electrical and refrigeration operations
	8066	Automotive services
	8071	Plant operation
	8072	Grounds
	8073	Boiler and power plant
	8074	Parking
	8075	Elevator operation
	8076	Security
	8090	Housekeeping Services
	8110	Laundry and Linen Service
	8111	Laundry service
	8112	Linen service
Fiscal and Administrative Services		
	8210	Fiscal Services
	8211	Fiscal services office
	8212	General accounting
	8213	Budget and costs
	8214	Payroll accounting
	8215	Accounts payable
	8216	Plant and equipment
	8217	Inventory accounting
	8221	Patient accounting
	8231	Data processing
	8241	Admitting
	8251	Cashiering
	8261	Credit and collections
	8310	Administrative Services
	8311	Administrative office
	8312	Governing board
	8313	Auxiliary groups
	8314	Chaplaincy services
	8315	Public relations and development
	8321	Management engineering
	8331	Purchasing
	8341	Communications
	8351	Printing and duplicating
	8361	Receiving and stores
	8371	Personnel
	8381	Employee medical services
	8410	Medical Care Evaluation

REVENUE AND EXPENSE ACCOUNTS (Continued)

Account Number		
Revenue	Expenses	Account Title
Unassigned Expenses		
	8510	Depreciation, Leases, and Rentals
	8511	Depreciation and amortization- historical cost
	8521	Depreciation and amortization- price-level adjustment
	8541	Depreciation and amortization- gain or loss from disposal of assets
	8561	Leases and rentals
	8610	Insurance
	8680	Licenses and Taxes (other than income taxes)
	8690	Interest
	8691	Working capital interest
	8695	Other interest
	8710	Employee Benefits
	8750	Other Operating Expenses
	8751	Student housing
	8752	Employee housing
	8755	Physicians' offices and other rentals
	8761	Medical photography and illustration
Nonoperating Revenues and Expenses		
9030	9010	Nonoperating Revenues and Expenses
	9011	Federal income tax- current
	9015	Federal income tax- deferred
	9021	State income tax- current
	9026	State income tax- deferred
9041		General contributions
9045		Donated services
9047		Donated commodities
9051		Income and gains from general fund investments
9055		Unrestricted income from endowment funds
9061		Unrestricted income from other restricted funds
9065		Term endowment funds becoming unrestricted

LEGAL COMPLIANCE QUESTIONNAIRE

Mississippi Community Hospital Compliance Questionnaire

As part of the Mississippi community hospital audit, the Board of Trustees of the hospital must make certain assertions with regard to legal compliance. The Mississippi Community Hospital Compliance Questionnaire was developed for this purpose.

The following questionnaire and related certification must be completed at the end of the hospital's fiscal year and entered into the official minutes of the hospital at their next regular meeting.

The Board of Trustees should take care to answer these questions accurately. Incorrect answers could reduce the auditor's reliance on the questionnaire responses, resulting in the need to perform additional audit procedures at added cost.

It is the auditor's responsibility to test compliance with this questionnaire.

(Name of Hospital)

CERTIFICATION TO MISSISSIPPI COMMUNITY HOSPITAL COMPLIANCE QUESTIONNAIRE YEAR
ENDED SEPTEMBER 30, 20__

We have reviewed all questions and responses as contained in the Hospital Compliance Questionnaire for _____, and to the best of our knowledge and belief, all responses are accurate.

Hospital Administrator Signature

Board President's Signature

Date

Date

Minutes Book Reference

Meeting of _____ (Date)

(Minute book references are to be entered when questionnaire is accepted by Board.)

MISSISSIPPI COMMUNITY HOSPITAL COMPLIANCE QUESTIONNAIRE

1. Name and address of hospital:

2. Names, addresses, and telephone numbers of officials (include Board Members, Administrator, Assistant Administrator, and Attorney). Attach sheet.

3. Period of time covered by this questionnaire:
From: _____ To: _____

(Name of Hospital)
Compliance Questionnaire

YES NO N/A

GENERAL

- | | | | | |
|-----|---|-------|-------|-------|
| 1. | Have actions of the Board of Trustees followed the procedures of the open meetings act Section 25-41-3 and Section 25-41-7 on matters in executive session? | _____ | _____ | _____ |
| 2. | Have actions of the Hospital Board been approved in its official minutes? | _____ | _____ | _____ |
| 3. | Have the actions of the Hospital Board followed the exemptions set forth in Section 25-61-9, 25-61-11 and 25-61-12 regarding commercial and financial information of a proprietary nature, federal statutory law and records related to business development? | _____ | _____ | _____ |
| 4. | Has each member of the board of trustees continued to meet the qualification of Section 41-13-29? | _____ | _____ | _____ |
| 5. | Has the Hospital adopted a policy on officers or employees receiving compensation for outside employment in addition to receiving a salary for full-time hospital employment?
(Meeting of _____) | _____ | _____ | _____ |
| 6. | Has the Hospital Board of Trustees adopted a policy on recruiting and financially assisting physicians and other health care practitioners in locating in the service area of the Hospital?
(Meeting of _____) | _____ | _____ | _____ |
| 7. | Has the Hospital Board of Trustees cited statutory authority on charitable contributions which is reflected in its official minutes? | _____ | _____ | _____ |
| 8. | Has the Hospital Board of Trustees adopted a policy on paying membership dues to organizations related to hospital business which is reflected in its official minutes?
(Meeting of _____) | _____ | _____ | _____ |
| 9. | Has the Hospital Board of Trustees adopted a policy that prohibits filling prescriptions for employees free of charge?
(Meeting of _____) | _____ | _____ | _____ |
| 10. | Has the Hospital Board of Trustees adopted a policy that prohibits its individual members from receiving compensation other than that allowed by statutory authority?
(Meeting of _____) | _____ | _____ | _____ |
| 11. | Has the Hospital Board of Trustees adopted a policy on insurance coverage for all employees?
(Meeting of _____) | _____ | _____ | _____ |

(Name of Hospital)
Compliance Questionnaire

		<u>YES</u>	<u>NO</u>	<u>N/A</u>
12.	Has the Hospital Board of Trustees adopted a policy on education benefits for all employees? (Meeting of _____)	_____	_____	_____
13.	Has the Hospital Board of Trustees adopted a policy describing limitation on the use of Hospital personnel for non-hospital matters during normal work hours? (Meeting of _____)	_____	_____	_____
14.	Has the Hospital Board of Trustees adopted a policy on the use of hospital telephones for personal use? (Meeting of _____)	_____	_____	_____
15.	Has the Hospital Board of Trustees adopted procedural policy on disposal of surplus property? (Meeting of _____)	_____	_____	_____
16.	Has the Hospital Board of Trustees adopted a policy on expenditures for public relations and advertising? (Meeting of _____)	_____	_____	_____
17.	Has the Hospital Board of Trustees adopted a policy on payment of invoices within the period of time discounts are allowed? (Meeting of _____)	_____	_____	_____
18.	Has the Hospital adopted a policy prohibiting payment of employee's bonuses or compensation in addition to established employee benefits, statutory incentive programs, and regular compensation? (Meeting of _____)	_____	_____	_____
19.	Have the Hospital Board Members and officials been properly bonded in accordance with the population requirements under the provisions of Section 41-13-29? (Meeting of _____)	_____	_____	_____
20.	Has the Hospital adopted a policy prohibiting making payroll advances to employees? (Meeting of _____)	_____	_____	_____
21.	Has the Hospital adopted a policy prohibiting the purchase of alcoholic beverages with public funds other than for medical purposes? (Meeting of _____)	_____	_____	_____
22.	Has the Hospital provided the required information in accordance with Section 27-104-155 to its owner for the creation of a transparent and accountable website?	_____	_____	_____

(Name of Hospital)
Compliance Questionnaire

		<u>YES</u>	<u>NO</u>	<u>N/A</u>
23.	Does the Hospital allow public access to records under provisions of Section 25-61-5?	_____	_____	_____
24.	Has the Hospital Board of Trustees complied with the nepotism law? (Meeting of _____)	_____	_____	_____
25.	Were payments to Hospital officers and employees as an expense allowance supported by proper documentation?	_____	_____	_____
26.	Are vehicles owned or leased by the Hospital properly marked as required by Section 25-1-87?	_____	_____	_____
27.	On or before the first Monday in September, has the Board of Trustees adopted, entered on its minutes, and filed with the owner or owners a proposed budget for ensuing fiscal year? (Section 41-13-47)	_____	_____	_____
28.	On or before the first Monday in March, has the Board of Trustees adopted, entered on its minutes, and filed with the owner or owners a full fiscal year report containing a complete and correct accounting of all funds received and expended for hospital purposes? (Section 41-13-47)	_____	_____	_____
29.	Has the Hospital avoided purchasing items from or entering into contracts with members of its Board of Trustees or businesses in which such members have a financial or ownership interest? (Section 25-4-105)	_____	_____	_____
30.	Has the Hospital avoided purchasing items from or entering into contracts with any hospital employees or a business in which they have an interest unless allowed under Section 25-4-105(4)?	_____	_____	_____
31.	Has the Hospital provided the required disclosures as required by a defined benefit retirement plan in accordance with Section 41-13-49 and 41-13-51?	_____	_____	_____

TRAVEL

1.	Has the Hospital complied with Sections 41-7-140, 41-13-29 and 41-13-35 regarding travel?	_____	_____	_____
2.	Has the Hospital adopted a policy on paying employees actual expenses for official travel while engaged in hospital business or in attending recognized educational or professional meetings? (Meeting of _____)	_____	_____	_____

(Name of Hospital)
Compliance Questionnaire

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
3. Have the Hospital officers and employees used, as a minimum, the travel vouchers prescribed by the MS State Dep't of Finance & Administration for reimbursement of official travel?	_____	_____	_____
4. Have the Hospital Board of Trustees adopted a policy requiring that paid receipts be attached to vouchers for travel reimbursement? (Meeting of _____)	_____	_____	_____

PURCHASING

1. Has the Hospital refrained from purchasing personal items for employee use?	_____	_____	_____
2. Has the Hospital adopted a policy prohibiting split purchases in order to avoid advertising for bids?	_____	_____	_____
3. Has the Board adopted a policy requiring acknowledgment of receipt of good purchased?	_____	_____	_____
4. Are at least two competitive written bids obtained for purchases of more than \$5,000 but not more than \$50,000? (Section 31-7-13)	_____	_____	_____
5. Did the Board of Trustees follow proper procedures in advertising for purchases of more than \$50,000? (Section 31-7-13)	_____	_____	_____
6. Did the Board of Trustees follow proper procedures for opening of bids?	_____	_____	_____
7. Is a bid file maintained by Hospital personnel as required by Section 31-7-13?	_____	_____	_____
8. Did the Board of Trustees justify on the minutes any purchases made other than lowest bid? (Section 31-7-13)	_____	_____	_____
9. Did the Board of Trustees place on the minutes and justify all emergency purchases? (Section 31-7-13)	_____	_____	_____
10. Has the Hospital generally complied with the Public Purchase Law? (Section 31-7-1, et al.)	_____	_____	_____

State of Mississippi
Office of the State Auditor

Attorney General Opinions

The following opinions were issued by the State of Mississippi Office of the Attorney General. Please be advised that an official Attorney General Opinion may provide protection from civil and criminal liability only to the entity that requests the opinion. These opinions are for your reference only and should be used with caution. We recommend a request for an official opinion be made if deemed necessary.

Office of the Attorney General
State of Mississippi

**1* Opinion No. 2005-0116
April 15, 2005

Re: Ad valorem taxes

Willam Dean Stark
Attorney
Board of Trustees, Oktibbeha **County Hospital**
P.O. Drawer 550
Starkville, MS 39760-0550

Dear Mr. Stark:

Attorney General Jim Hood received your request for an Official Opinion and assigned it to me for research and response. In your letter of request, a copy of which is attached hereto and incorporated herein, you state, in part:

Over the past several years, Oktibbeha **County Hospital** has purchased some buildings that were formerly medical clinics occupied by private physicians. The **County hospital** has since leased office space in the public buildings to private physicians who occupy all or part of the buildings. We would appreciate your opinion as to the following:

1. Question: Is the hospital property leased to a private physician or a private medical group subject to ad valorem tax? If yes, then
2. Question: In a case where a private physician leases and occupies a percentage of a building (e.g., 62% of per square footage), is it proper to assess the building for ad valorem tax for the portion of the building utilized by the private physician (62% of assessed value)?
3. Question: In the above case where part of the building is leased and the County Tax Assessor has assessed ad valorem tax on the entire building, should the County Tax Assessor correct the assessment to reflect the percentage use or does the County Board of Supervisors have sole authority to make the adjustment/correction?
4. Question: In the event that the Hospital has overpaid ad valorem taxes on the property for several years, how far back can the adjustment or correction be made?

Under [Section 7-5-25 of the Mississippi Code of 1972](#), Annotated, as amended, this office is authorized to issue official opinions to elected and appointed officials on questions of law relating to the performance of their duties. Your first three questions relate to the duties of the tax assessor and may require certain factual determinations to be made. Therefore, we are unable to respond to these questions by way of official opinion. However, for your information, we are aware of no circumstances in which the **county hospital** property should be assessed for ad valorem taxes, nor are we aware of any authority for the **county hospital** to pay ad valorem taxes.

In response to your fourth question, this office has previously opined that the general three year limitation contained in Section 15-1-49 is applicable to refunds relating to the overpayment of ad valorem taxes. See MS AG Op., Griffith (Sept. 12, 2003) enclosed. As you note in your letter, **county hospital** property, whether owned by the county or the hospital, is exempt from taxation. [Miss. Code Ann. Sec. 27-31-1 \(Supp. 2004\)](#). This office has previously opined that a privately-held leasehold interest is not exempt unless expressly authorized or provided by law. See MS AG Op., Young (Sept. 8, 1993); MS AG Op., Dulin (Aug. 16, 1996)

enclosed. If otherwise exempt property becomes subject to taxation by way of a lease or other arrangement with a private party, then the three year limitation would be applicable to refunds relating to the overpayment of such taxes.

Very truly yours,

***2** Jim Hood
Attorney General

By: Charles T. Rubisoff
Special Assistant Attorney General
2005 WL 1220435 (Miss.A.G.)
END OF DOCUMENT

2004 WL 555105 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

***1** Opinion No. 2004-0010
February 6, 2004

Re: **County Hospitals**

John H. Thompson
Jefferson Davis County Board of Supervisors
125 N. J. Booth Lane
Bassfield, Mississippi 39421

Mr. Thompson:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply. In your letter you ask:

1. If there is a vacancy, who appoints a member to the Board of Trustees for a **county hospital**?
2. Can a **county hospital** be leased to a private company? If so, can the Board of Supervisors give tax money to a private company that lease the **county hospital**?
3. Who is liable for the **county hospital** that is leased by a private company?

Miss. Code Ann., Section 41-13-2(1) (2001) provides:

The owners are hereby authorized to appoint trustees for the purpose of operating and governing community hospitals. The appointees of each shall be adult legal residents of the county which has an ownership interest in said community hospital or the county wherein the municipality or other political subdivision holding the ownership interest in the community hospital is located. The authority to appoint trustees shall not apply to leased facilities, unless specifically reserved by the owner in the applicable lease agreement. The board of trustees shall consist of not more than seven (7) members nor less than five (5) members, except where specifically authorized by statute, and shall be appointed by the respective owners on a pro rata basis comparable to the ownership interest in the community hospital. Where such community hospital is owned solely by a county, or any supervisors districts, judicial districts or election district of a county, or by a municipality, the trustees shall be residents of the owning entity. Trustees for municipally-owned community hospitals shall be appointed by the owner of said

municipality. Trustees for a community hospital owned by a county shall be appointed by the board of supervisors with each supervisor having the right to nominate one (1) trustee his district or from the county at large. Appointments exceeding five (5) in number shall be from the county at large. Trustees for a community hospital owned solely by supervisors districts, judicial districts or election district of a county, shall be appointed by the board of supervisors of said county from nominees submitted by the supervisor(s) representing the owner district(s). Section 41-13-29(2) further provides in part:

Any vacancy on the board of trustees shall be filled within ninety (90) days by appointment by the applicable owner for the remainder of the unexpired term.

Thus, if the vacancy is an at-large appointment, the appointment shall be made within ninety (90) days by the board of supervisors as a whole. However, if the vacancy is not an at-large appointment, the appropriate supervisor shall submit a nomination and the appointment shall be made within ninety (90) days by the board of supervisors.

***2** As to your second question, owners of a community hospital have the statutory authority to enter into a lease with a private company pursuant to [Miss. Code Ann., Section 41-13-15 \(2001\)](#), which reads in part:

(7)(a) Except as provided for in subsection (11) of this section, owners may lease all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8), (9) and (10) of this section. The term of such lease shall not exceed fifty (50) years. Such lease shall be conditioned upon (i) the leased facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the lease shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the lease being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose....

Furthermore, [Miss. Code Ann., Section 41-13-25 \(2001\)](#) provides in part:

The board of supervisors acting for a county, supervisors district or districts or an election district of such county, and the board of aldermen, city council or other like governing body acting for a city or town, are hereby authorized and empowered to levy ad valorem taxes on all the taxable property of such counties, cities, towns, supervisors district of election district for the purposes of raising funds for the maintenance and operation of hospitals, nurses' homes, health centers, health departments, diagnostic or treatment centers, rehabilitation facilities, nursing homes and related facilities established under the provisions of [Sections 41-13-15](#) through [41-13-51](#), and for making additions and improvements thereto and to pledge such ad valorem taxes, whether or not actually levied, for the retirement of debt incurred either by or on behalf of such facilities and/or pursuant to agreements executed under the authority of the Mississippi Hospital Equipment and Facilities Authority Act;

Section 41-13-10(e) states:

"Leased facility" shall mean a hospital, nursing home or related health facilities which an owner has leased to an individual, partnership, corporation, other owner or board of trustees for a term not in excess of fifty (50) years, conditioned upon the facility continuing to operate on a nonprofit basis.

Although Section 41-13-10(e) allows, under proper circumstances, tax support of a "leased facility," it does not contemplate donation of tax dollars to support a private, for-profit entity. MS AG Op., Dulaney (October 26, 1990).

***3** Lastly, any liability the county or board of trustees of the community hospital may have is speculative and not susceptible of a definite response. The answer depends in part on the identity of the private entity and the terms of the lease in question. However, generally if the private entity does not maintain the governmental entity status of the community hospital, it will not be shielded by immunity under Section 41-13-11.

If we may be of any further assistance, please let us know.

Sincerely,

Jim Hood
Attorney General

By: Avery Mounger Lee
Special Assistant Attorney General
2004 WL 555105 (Miss.A.G.)
END OF DOCUMENT

2004 WL 2031689 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

**1* Opinion No. 2004-0373
August 23, 2004

Re: Loan of Equipment and Supplies by **Public Hospital**

Walter Brown, Esq.
Walter Brown Law Firm, PLLC
P. O. Box 963
Natchez MS 39121

Dear Mr. Brown:

Attorney General Jim Hood has received your request for an official opinion and has assigned it to me for research and response. Your letter reads as follows:

The Board of Trustees of Natchez Regional Medical Center has asked that I request of you an opinion as to the authority of our hospital to engage in the following actions. In our community there are two hospitals, our publically owned county hospital, a private for-profit hospital and immediately across the river in Vidalia, Louisiana, a private for-profit out-patient surgical facility. There have been discussions between officers of the hospital with respect to the loaning of equipment and/or supplies to or from the Natchez Regional Medical Center and the other two facilities. This might involve surgical equipment, or simply supplies from time-to-time. Our inquiry is whether or not Natchez Regional Medical Center as a publically owned county hospital has the authority to loan equipment or supplies to either of the for-profit private facilities in Mississippi or Louisiana, both of whom are in our immediate service area. Our second inquiry is whether or not such loans from Natchez Regional to such facilities would be authorized if under an emergency basis, and if so, under what terms and conditions.

[Miss. Code Ann. Section 41-13-15\(5\) \(1972\)](#) provides, in part, as follows:

(5) The power of the board of trustees shall specifically include, but not be limited to, the following authority:

(g) To contract by way of lease, lease-purchase or otherwise, with any agency, department or other office of government or any individual, partnership, corporation, owner, other board of trustees, or other health care facility, for the providing of property, equipment or services by or to the community hospital or other entity or regarding any facet of the construction, management, funding or operation of the community hospital or any division or department thereof, or any related activity, including, without limitation, shared management expertise or

employee insurance and retirement programs, and to terminate said contracts when deemed in the best interests of the community hospital;

(i) To sell or otherwise dispose of any chattel property of the community hospital by any method deemed appropriate by the board where such disposition is consistent with the hospital purposes or where such property is deemed by the board to be surplus or otherwise unneeded;

(n) To promote, develop, acquire, operate and maintain on a nonprofit basis, or on a profit basis if the community hospital's share of profits is used solely for community hospital and related purposes in accordance with this chapter, either separately or jointly with one or more other hospitals or health-related organizations, facilities and equipment for providing goods, services and programs for hospitals, other health care providers, and other persons or entities in need of such goods, services and programs and, in doing so, to provide for contracts of employment or contracts for services and ownership of property on terms that will protect the public interest;

*2 ***

The opinion of this office is that, in accordance with [Miss. Code Ann. Section 41-13-15\(5\)](#), Natchez Regional Medical Center may enter into written "mutual aid" agreements for temporary loans of hospital equipment to area hospitals for emergency health use, provided that, each temporary loan of equipment is approved by the hospital director. The hospital must maintain a careful accounting for any temporarily loaned equipment and the equipment must be maintained on the county inventory. Any such temporary loan of equipment must not be a donation, and the temporary nature of the loan must be evidenced in writing and the equipment must be promptly returned to Natchez Regional Medical Center upon the cessation of use by the area hospital. Please let me know if you would like to discuss this matter or if I can be of further assistance.

Sincerely,

Jim Hood
Attorney General

By: Reese Partridge
Special Assistant Attorney General
2004 WL 2031689 (Miss.A.G.)
END OF DOCUMENT

2004 WL 2031698 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

**1* Opinion No. 2004-0374
August 20, 2004

Re: County Work on Community Hospital Property

Walter Brown, Esquire
Walter Brown Law Firm, PLLC
Post Office Box 963
Natchez, Mississippi 39121

Dear Mr. Brown:

Attorney General Jim Hood has received your recent letter on behalf of the Board of Trustees of the Natchez Regional Medical Center and has assigned it to me for research and reply. Your request for an official opinion presents these pertinent facts which are followed by your question. Natchez Regional Medical Center is a public community hospital operating under Title 41 of the Mississippi Code. The **county hospital** is considering the construction of a helicopter pad on its campus. The Board of Supervisors of Adams County is the owner of the hospital and of the real property on which it operates.

The Board of Trustees is considering asking the Board of Supervisors of Adams County to assist in the preparation of the said county-owned property by preparation of the site including dirt work and use of heavy equipment owned by the county.

Does the county have the authority to perform work on the county property used by the hospital and operated by the duly appointed Board of Trustees of the hospital?

In response and as you noted, [Sections 41-13-10, et. seq., of the Mississippi Code of 1972](#), as amended, prescribes the statutory scheme for ownership and operation of community hospitals. These statutes last underwent major modification during the 1985 legislative session. Section 1, Chapter 511, Laws of 1985 clearly sets out the legislative intent for these modifications.

It is the intent and purpose of this act to clarify and expand the power of boards of trustees of community hospitals so as to allow such community hospitals to operate efficiently, to offer competitive health care services, to respond more effectively to new developments and regulatory changes in the health care area and to continue to serve and promote the health and welfare of the citizens of the State of Mississippi. This act shall be liberally construed so as to give effect to such intent and purpose. [Emphasis added.]

Section 41-13-15(1) states, in pertinent part, as follows.

Any county... may acquire and hold real estate for a community hospital... and may... construct a community hospital thereon and/or appropriate funds according to the provisions of this chapter for the construction, remodeling, maintaining, equipping, furnishing and expansion of such facilities by the board of trustees upon such real estate.

A county quite clearly is empowered to appropriate funds for constructing, equipping, maintaining, etc., a community hospital. We have previously stated that the power to contribute funds includes the power to make in-kind contributions. Consequently, the county may provide labor, equipment and all necessary materials to construct, remodel, maintain, equip, furnish or expand a county-owned community hospital. Therefore, it is the opinion of this office that the county has the authority to perform work on the county property used by the hospital and operated by the duly appointed board of trustees of the hospital.

***2** Before authorizing any work, the board of supervisors must determine that the work in question is necessary pursuant to Section 41-13-15. As with all exercise of authority, the board's decision should be reflected by an order entered upon its minutes.

If we may be of further service, please let us know.

Very truly yours,

Jim Hood
Attorney General

By: Charlene R. Pierce
Special Assistant Attorney General
2004 WL 2031698 (Miss.A.G.)
END OF DOCUMENT

Office of the Attorney General
State of Mississippi

**I* Opinion No. 2002-0211
April 26, 2002

Re: Natchez Regional Medical Center Immunity of Political Subdivisions

Walter Brown, Esquire
Walter Brown Law Firm, PLLC
Post Office Box 963
Natchez, Mississippi 39121

Dear Mr. Brown:

Attorney General Mike Moore has received your letter of request and referred it to me for research and reply.

Your letter states in pertinent part:

This office represents the Board of Trustees of the Natchez Regional Medical Center, a **public hospital** owned by Adams County, Mississippi, and operated in accordance with [Miss. Code Ann. Section 11-46-1](#), et seq., as amended.

I have been asked by the Board to inquire of your office as to the applicability of the Mississippi Tort Claims Act to the hospital and its operations here in Adams County. I have furnished to the Board of Trustees your opinion of September 4, 1998 to the University of Mississippi Medical Center and raise basically the same question in that Opinion, i.e. (1) is the Natchez Regional Medical Center as a **public hospital** owned by Adams County covered under the Mississippi Tort Claims Act, and (2) are staff doctors employed by the hospital, in this instance, family practice doctors who receive a salary from the hospital and carry on a full time medical practice on behalf of Natchez Regional Medical Center, covered under the provisions of the aforesaid Mississippi Tort Claims Act and thus immune from liability in accordance with Section 11-46-7 (2) and as such may not be held personally liable for acts or omissions occurring within the course and scope of the employee's duties.

[Miss. Code Ann. Section 11-46-17 \(3\) \(1998\)](#) provides in part:

All political subdivisions shall, from and after October 1, 1993, obtain such policy or policies of insurance, establish such self-insurance reserves, or provide a combination of such insurance and reserves as necessary to cover all risks of claims and suits for which political subdivisions may be liable under this chapter; except any political subdivision shall not be required to obtain pollution liability insurance.

[Miss. Code Ann. Section 11-46-1\(f\) \(1999\)](#) provides that "employee" means any officer, employee or servant of the State of Mississippi or a political subdivision of the state... acting on behalf of the state or a political subdivision in any official capacity...

[Miss. Code Ann. Section 11-46-1 \(i\) \(1999\)](#) provides that "political subdivision" means any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including but not limited to any county, municipality, school district, community hospital as defined in [Section 41-13-10, Mississippi Code of 1972](#), airport authority or other instrumentality thereof, whether or not such body or instrumentality thereof has the authority to levy taxes or to sue or be sued in its own name.

[Miss. Code Ann. Section 11-46-7\(2\) \(1993\)](#) provides in part... that no employee shall be held personally liable for acts or omissions occurring within the course and scope of the employee's duties.

*2 The Supreme Court has recently held that nurses, as employees of a county hospital, were immune from liability on patient's malpractice action alleging nurses failed to assess, evaluate, and advise other health care authorities as to patient's progress, as alleged negligence occurred within course and scope of nurses' duties. [Jones v. Baptist Memorial Hospital-Golden Triangle, Inc. 735 So.2d 993 \(Miss. 1999\)](#).

We base our responses on the fact that the Natchez Regional Medical Center is a **public hospital** owned in the entirety by Adams County, Mississippi and the fact that it has complied with the insurance or self-insurance requirements of the Tort Claims Act.

As to your first query, this office is of the opinion that the Natchez Regional Medical Center, a **public hospital** owned by Adams County, Mississippi, is covered under the Tort Claims Act pursuant to [Section 11-46-17 \(3\)](#).

As to your second query, this office is of the opinion that full time staff doctors employed by and paid by the hospital are considered employees for purposes of the Tort Claims Act, and as such, are not personally liable for acts or omissions occurring within the course and scope of their employment pursuant to [Section 11-46-7 \(2\)](#).

Sincerely,

Mike Moore
Attorney General

John B. Runnels
Special Assistant Attorney General
2002 WL 1057938 (Miss.A.G.)
END OF DOCUMENT

1999 WL 529141 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

*1 Opinion No. 1999-0215
May 14, 1999

Re: Community Hospital Purchase of Rehabilitation Practice Assets

Margaret H. Williams, Esquire
Post Office Box 651
Jackson, Mississippi 39205-0651

Dear Ms. Williams:

Attorney General Mike Moore has received your request for an official opinion from this office and has assigned it to me for research and reply. Your letter states: Field Memorial Community Hospital is established and operated in accordance with Chapter 13, Title 41 of the Mississippi Code. The owner of an existing physical therapy and rehabilitation center that is currently operating within the Hospital's service area has announced his intention to sell his existing physical therapy and rehabilitation business. The Hospital desires to acquire

the assets of this existing business and to continue offering outpatient therapy and rehabilitation services to the public pursuant to authority granted under [Section 41-13-35\(5\)\(m\) of the Mississippi Code](#).

The Hospital intends to obtain an appraisal to assist it in determining the fair market value of the assets of the existing rehabilitation practice. The Hospital has advised the Seller that it is unable to compensate the Seller for goodwill based upon a September 18, 1992 Attorney General's opinion which authorized George County Hospital to purchase only medical and laboratory equipment, accounts receivable and other tangible assets of a medical practice. The question for which Field Memorial Community Hospital is currently seeking guidance from your office is whether its proposed acquisition of all the tangible practice assets, including fixtures, furnishings and equipment currently used by the Seller in its physical therapy and rehabilitation practice, can be acquired by the Hospital at a price no greater than the appraised fair market value of the assets under the specific authority granted pursuant to [Mississippi Code Section 41-13-35\(5\), subsections \(g\), \(j\), \(n\), and \(o\)](#), without the need to comply with the general bid laws applicable to a purchase of commodities under [Section 31-7-13 of the Mississippi Code](#). I look forward to receiving your advice in this regard.

RESPONSE:

All references to sections herein are references to the Mississippi Code of 1972. Purchasing by agencies and governing authorities, including boards of trustees of **public hospitals**, is generally governed by [Section 31-7-13](#), which reads in part: [Section 31-7-13](#). Bid requirements and exceptions; public auctions.

All agencies and governing authorities shall purchase their commodities and printing; contract for fire insurance, automobile insurance, casualty insurance (other than workers' compensation) and liability insurance; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; and contract for public construction as herein provided.

Section 31-7-1 defines commodities in the following manner:

*2 Section 31-7-1. Definitions.

The following terms are defined for the purposes of this chapter to have the following meanings:

(e) "commodities" shall mean and include the various commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state and governing authorities, but not commodities purchased for resale.

While these provisions would control in the purchase of various commodities and personal property purchased on the open market for use in the general operation of the **public hospital**, in our opinion they would not control in the purchase of personal property as part of the acquisition of an existing physical therapy and rehabilitation center. The acquisition of such an ongoing operating facility would be governed by the provisions of [Section 41-13-35](#). This section provides in part:

[Section 41-13-35](#). General powers and duties of trustees; bonds; prohibited acts or behavior of trustees, individual trustee, or agent or servant of trustee.

(5) The power of the board of trustees shall specifically include, but not be limited to, the following authority:

(j) To let contracts for the construction, remodeling, expansion or acquisition, by lease or purchase, of hospital or health care facilities, including real property, within the service area for community hospital purposes where such may be done with operational funds without encumbering the general funds of the county or municipality, provided that any contract for the purchase of real property must be ratified by the owner;

(m) To offer the following inpatient and outpatient services, after complying with applicable health planning, licensure statutes and regulations, whether or not heretofore offered by such hospital or other similar hospitals in this state and whether or not heretofore authorized to be offered, long-term care, extended care, home care, after-hours clinic services, ambulatory surgical clinic services, preventative health care services including wellness services, health education, rehabilitation and diagnostic and treatment services; to promote, develop, operate and maintain a center providing care or residential facilities for the aged, convalescent or handicapped; and to promote, develop and institute any other services having an appropriate place in the operation of a hospital offering complete community health care;

(n) To promote, develop, acquire, operate and maintain on a nonprofit basis, or on a profit basis if the community hospital's share of profits is used solely for community hospital and related purposes in accordance with this chapter, either separately or jointly with one or more other hospitals or health related organizations, facilities and equipment for providing foods, services and programs for hospitals, other health care providers, and other persons or entities in need of such goods, services and programs and, in doing so, to provide for contracts of employment or contracts for services and ownership of property on terms that will protect the public interest;

***3** (o) To establish and operate medical offices, child care centers, wellness or fitness centers and other facilities and programs which the board determines are appropriate in the operation of a community hospital for the benefit of its employees, personnel and/or medical staff which shall be operated as an integral part of the hospital and which may, in the direction of the board of trustees, be offered to the general public. If such programs are not established in existing facilities or constructed on real estate previously acquired by the owners, the board of trustees shall also have authority to acquire, by lease or purchase, such facilities and real property within the service area, whether or not adjacent to existing facilities, provided that any contract for the purchase of real property shall be ratified by the owner.

In our opinion the Field Memorial Hospital Board of Trustees is authorized under the provisions of [Section 41-13-35](#) cited above to purchase all tangible assets of the physical therapy and rehabilitation practice as described in your letter of request for no more than fair market value, without regard to [Section 31-7-13](#) and the general bid procedures set out therein. If real property is to be purchased as a part of this transaction, such purchase must be ratified by the governing authorities constituting the owner or owners of the hospital. Also, no consideration may be paid for intangible assets of the practice. See MS AG Op., Hurt (September 18, 1992) attached.

Sincerely yours,

Mike Moore
Attorney General

By: Larry E. Clark
Deputy Attorney General
1999 WL 529141 (Miss.A.G.)
END OF DOCUMENT

1998 WL 703738 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

**1* Opinion No. 98-0557
September 11, 1998

Re: Status of a Limited Liability Company owned in part by a Community Hospital Through a Nonprofit Corporation

Hon. Jonell B. Williamson
Baker, Donelson, Bearman & Caldwell
P. O. Box 24417
Jackson, Mississippi 39225

Dear Ms. Williamson:

Attorney General Mike Moore has received your request for an Official Opinion from this office and has assigned it to me for research and reply.

Your letter states and asks:

Our firm is special counsel to the Board of Trustees of Magnolia Regional Health Center, a public community hospital owned by the City of Corinth and Alcorn County, Mississippi.

In an effort to continue to serve and promote the health and welfare of the citizens of the hospital's service area, the board of trustees of the hospital has created and will be the sole member of Magnolia Regional Surgery Center, Inc., a Mississippi nonprofit corporation organized and operated exclusively for the promotion of health and provision of healthcare services in the hospital's service area.

The nonprofit corporation was formed to participate as a 50% owner of the Corinth Surgery Center, LLC, a Mississippi limited liability company which will own and operate an ambulatory surgery center to be constructed and operated by the Corinth Surgery Center, LLC. The other 50% interest in the Corinth Surgery Center, LLC, will be owned by the Corinth Surgeons Group, LLC, a Mississippi limited liability company owned by eligible physician investors.

It is anticipated that the board of trustees of the hospital will determine to provide financial assistance or grants to the nonprofit corporation for funding of ambulatory surgical health services pursuant to the authority granted to community hospitals under [Section 41-13-38\(2\) of the Mississippi Code of 1972](#). Such funding will be used by the nonprofit corporation to make a loan to and/or invest in Corinth Surgery Center, LLC, which will construct, equip, own and operate an ambulatory surgical facility.

We answer your questions seriatim. All references to Sections hereinafter are references to sections of the Mississippi Code of 1972.

1. Will Corinth Surgery Center, LLC, be a private entity such that its employees are private, not public, employees, and its activities are authorized under the Mississippi Limited Liability Act and

not subject to laws governing public bodies such as political subdivisions and municipalities?

Pursuant to Section 7-5-25, opinions of the Attorney General are issued on questions of law for the future guidance of those officials entitled to receive them. An Attorney General's opinion can neither validate nor invalidate past action of an officer or agency. Therefore, to the extent that your question relates to actions already taken, we must decline to respond to your request with an official opinion of this office.

In brief, the board of trustees of the **public hospital** ("Hospital") has formed and will be the sole member of a nonprofit corporation ("Nonprofit Corporation"). The Nonprofit Corporation will become a 50% owner of a for profit limited liability company ("LLC"); the other 50% will be owned by a second for profit limited liability company. The LLC will construct, equip, own and operate an ambulatory surgical facility. The Hospital would capitalize the Nonprofit Corporation which would then inject the funds, by loan or investment, into the LLC.

*2 Thus, while created pursuant to statutes permitting such creation, the LLC is not created by either the Constitution or the statutes of the State of Mississippi, and therefore is not an "agency" within the meaning of Sections 7- 7-1(3) (State Fiscal Officer), 25-9-107(d) (Statewide Personnel System) or 31- 7-1(a) (Public Purchases). In addition, the management of the LLC are not "governing authorities" within the meaning of Section 31-7-1.

Within the statutes providing definitions and limitations on employees of the State, Section 25-11-103(y) defines "State" as meaning the State of Mississippi or any political subdivision thereof or instrumentality thereof. The LLC is clearly neither a political subdivision nor an instrumentality of the State of Mississippi and its employees will not be public employees. See MS AG Op., Stribling (February 3, 1993) and MS AG Op., Cowart (August 5, 1992), copies of which is enclosed.

The remainder of your question is too broad for response by an official opinion. However, as to actions not yet taken and for the future guidance of those public officials material to the undertaking who are entitled to receive an official opinion, we do respond officially upon a limited basis.

Section 7-7-21(f) states that the Department of Audit shall have the power and duty: To postaudit and, when deemed necessary, preaudit and investigate the financial affairs of the levee boards; agencies created by the Legislature or by executive order of the Governor; profit or nonprofit business entities administering programs financed by funds flowing through the State Treasury or through any of the agencies of the state, or its subdivisions; and all other public bodies supported by funds derived in part or wholly from public funds, except municipalities which annually submit an audit prepared by a qualified certified public accountant using methods and procedures prescribed by the department;

We have previously opined in MS AG Op., Bryant (April 11, 1997), and MS AG Op., Barry (February 21, 1997), copies of which are enclosed, that as the ultimate recipient of public funds, a corporation may be subject to audit by the Department of Audit.

In MS AG Op., Williams (December 20, 1996), a copy of which is enclosed, we opined that the provisions of the conflicts of interest codified at Sections 25-4-101, et seq., may be applicable to the for profit corporation formed pursuant to the Venture Capital Act of 1994, codified at Sections 57-77-1, et seq.

2. Will the construction of the ambulatory surgical facility by the Corinth Surgery Center, LLC, be private, not public, construction, and therefore not subject to the public bid requirements applicable to public construction.

We find no statute requiring the LLC to comply with the public bid requirements applicable to public construction.

Very truly yours,

Mike Moore

Attorney General

By: Edwin T. Cofer
Special Assistant Attorney General
1998 WL 703738 (Miss.A.G.)
END OF DOCUMENT

1998 WL 224284 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

*1 Opinion No. 98-0183
April 10, 1998

Re: AAA Ambulance Service

Mr. William C. Oliver
President
Forrest General Hospital
P. O. Box 16389
Hattiesburg, Mississippi 39404-6389

Dear Mr. Oliver:

Attorney General Mike Moore has received your request for an Official Opinion from this office and has assigned it to me for research and reply.

Because of the length of your letter, a copy thereof is attached hereto. We summarize the facts in your letter and state the questions therein as follows:

AAA Ambulance Service ("AAA") is a non-profit Mississippi corporation organized and existing for the purpose of providing public ambulance service. AAA was chartered by Forrest General Hospital pursuant to the provisions of what is now [Section 41-55-9 of the Mississippi Code of 1972](#). The members of the board of directors of AAA are appointed by Forrest General Hospital, the City of Hattiesburg and Forrest County. By contract, AAA also operates the Air Ambulance Service of the Southeast Mississippi Air Ambulance District, which district was created pursuant to Sections 41-55-31, et seq.

1. Whether AAA Ambulance Service is a tax exempt organization for purposes of purchases of fuel and equipment?
2. Whether AAA Ambulance Service must comply with state purchasing, expense reimbursement and related laws?

All references to Sections hereinafter are references to sections of the Mississippi Code of 1972.

1. We will respond to your first question by separate answers as to possibly different tax exemption statuses for purchases of fuel and of equipment. Gasoline and Motor Fuel Purchases Section 27-55-12 provides in pertinent part:

The United States Government, the State of Mississippi, counties, municipalities, school districts and all other political subdivisions of the state shall be exempt from excise taxes on gasoline, diesel fuel and compressed gas

To obtain exemption from tax upon fuel purchases, AAA must fall within one of the categories listed in 27-55-12. Since the categories of United States Government, State of Mississippi, counties, municipalities and school districts are obviously inapplicable, we look to the statute pursuant to which AAA was incorporated to determine as to whether AAA is a "political subdivision of the state," a term not defined in Sections 27-55-1, et seq.

[Section 41-55-9](#), pursuant to which AAA was incorporated, provides in pertinent part:

Moreover, the board of commissioners or board of trustees of any such public hospital, upon a further finding that it is necessary or expedient to do so, may, individually or jointly with the governing authority or authorities of either or both types of hospitals as aforesaid, organize and participate in the ownership of a nonprofit corporation organized under the laws of the state of Mississippi for the specific purpose of providing public ambulance service. Any such contract and any such charter of incorporation shall include specific provisions for retaining majority control in the public hospital or hospitals involved, to preserve and protect the funds and property of the public hospital or hospitals involved and to provide for termination of the arrangement upon reasonable notice by the public hospital or hospitals.

*2 We have previously opined that a private non-profit corporation is not a political subdivision. See MS AG Op., Walker (March 24, 1993), a copy of which is enclosed. We find no statute that provides that AAA, when created, would be a political subdivision of the state, and therefore are of the opinion that AAA Ambulance Service is not entitled to the exemptions from gasoline and motor fuel taxes provided by Section 27-55-12.

To the extent that MS AG Op., Hedgepeth (September 17, 1969), a copy of which is enclosed, is in conflict herewith, said prior opinion is overruled. Sales Tax on Equipment Purchases Section 27-65-105 provides in pertinent part as follows:

The exemption from the provisions of this chapter which are of a governmental nature or which are more properly classified as governmental exemptions than any other exemption classification of this chapter shall be confined to those persons or property exempted by this section or by provisions of the Constitutions of the United States or the State of Mississippi. No governmental exemption as now provided by any other section shall be valid as against the tax herein levied. Any subsequent governmental exemption from the tax levied hereunder shall be provided by amendment to this section.

The tax levied by this chapter shall not apply to the following:

(a) Sales of property, labor or services taxable under Sections 27-65-17, 27-65-19 and 27-65-23, when sold to and billed directly to and payment therefor is made directly by the United States government, the State of Mississippi and its departments, institutions, counties and municipalities or departments or school districts of said counties and municipalities.

The exemption from the tax imposed under this chapter shall not apply to sales of tangible personal property, labor or services to contractors purchasing in the performance of contracts with the United States, the State of Mississippi, counties and municipalities.

In our opinion AAA Ambulance Service is not entitled to the exemption from sales tax provided by Section 27-65-105.

Again, to the extent that MS AG Op., Hedgepeth (September 17, 1969), is in conflict herewith, said prior opinion is overruled.

2. We will respond to your second question by separate answers as to possibly different exemption statuses from the state purchasing laws, etc.

State Purchasing Laws

Section 31-7-13 provides in pertinent part:

All agencies and governing authorities shall purchase their commodities and printing; contract for fire insurance, automobile insurance, casualty insurance (other than workers' compensation) and liability insurance; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; and contract for public construction as herein provided.

For purposes of the state purchasing laws, Section 31-7-1 defines the terms "agency" and "governing authority" as follows:

*3 (a) "Agency" shall mean any state board, commission, committee, council, university, department or unit thereof created by the Constitution or statutes if such board, commission, committee, council, university, department, unit or the head thereof is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof.

(b) "Governing authority" shall mean boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, commissioners and boards of trustees of any public hospitals, boards of trustees of public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds.

AAA was created pursuant to permission granted by statute, but not by statute and not by the Mississippi Constitution of 1890, and therefore does not fall within the definition of "agency." Having previously opined herein that AAA is not a political subdivision for purposes of Section 27-55-12, we now opine that AAA is not a political subdivision for purposes of Section 31-7-1, et seq., and is exempt therefrom. See also MS AG Op., Gex (February 23, 1989), a copy of which is attached hereto.

Expense Reimbursement

We assume that your question refers to Section 25-3-41, which is applicable to "any officer or employee of the State of Mississippi, or any department, agency or institution thereof, or of any county or municipality, or of any agency, board or commission thereof."

It is the opinion of this office that AAA is not subject to the provisions of Section 25-3-41.

Related Laws

Because of the broad scope of this area, we are unable to furnish an official opinion thereon.

Very truly yours,

Mike Moore
Attorney General

By: Edwin T. Cofer
Special Assistant Attorney

1997 WL 100802 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

**I* Opinion No. 97-0069
February 28, 1997

Re: Docket of claims; authority to delegate approval of payments

Michael R. Whitmore
Trustee
Singing River Hospital System
P.O. Drawer 1385
Pascagoula, MS 39568

Dear Mr. Whitmore:

Attorney General Mike Moore has received your request for an opinion of this office and has assigned it to me for research and reply. Your letter states:

Based on [Section 19-13-35, Mississippi Code of 1972](#), Annotated, does a **public hospital's** docket of claims fall within the guidelines of said section? To be specific, can checks to vendors be issued before the docket of claims is approved by the Board of Trustees and does the Board of Trustees have the power to delegate such authority to the administrator to approve payment? [Miss. Code Ann. Sec. 19-13-35 \(1972\)](#) provides a penalty for unauthorized appropriations claimed and received from or voted favorably upon by a member of the board of supervisors of any county. Although the county must approve the annual budget of the hospital before any hospital funds may be disbursed, and the hospital is an agency of the county, [Section 19-13-35](#) does not govern appropriations of community hospitals.

Among the powers granted to a community hospital board of trustees is the power "to deposit and invest funds of the community hospital in accordance with Section 27-105-365." [Miss. Code Ann. Sec. 41-13-35\(5\)\(a\)\(Supp. 1996\)](#). [Miss. Code Ann. Sec. 27-105-365](#) addresses the manner in which hospital funds are to be handled. That section provides, in relevant part:

(2) All funds which shall be derived from any tax levied for the support and maintenance of any such hospital, and all other funds which may be made available for the support and maintenance of any such hospital by the state or any county or municipality, and all fees and other moneys which may be collected or received by or for such hospital shall be placed in a special fund to the credit of such hospital within sixty (60) days after collection, and all such funds shall be expended and paid out upon the allowance of the board of trustees or commissioners of said hospital, as the case may be, and disbursed by checks signed by such person, officer or officers, as may be designated by such board of trustees or commissioners. Any officer or person who shall be designated by such board of trustees or commissioners to execute such checks shall furnish to such board of trustees or commissioners a good and sufficient surety bond in such

amount as such board of trustees may fix, conditioned upon the faithful discharge of his duties, and the premium on such bond shall be paid from the funds available for the support and maintenance of such hospital. No funds shall be disbursed by any such hospital until the board of trustees or the commissioners thereof shall have adopted an annual budget and submitted same to the said governing authority or authorities, as the case may be, which approval shall be evidenced by a proper order recorded upon the minutes of each such authority. The accounts and records of any such hospital shall be audited by the State Department of Audit at the same time and in the same manner as the accounts and financial records of the county are audited, and for such purpose shall be considered in all respects as county accounts and records; provided, however, that this provision with regard to such audits shall be applicable only to hospitals owned wholly or in part by a county. *2 (emphasis added).

Assuming that the annual budget of Singing River Hospital System has been submitted to and approved by the governing authority, payment of the hospital's expenditures should be made in compliance with the procedure set forth in [Sec. 27-105-365](#). Where the board has made an allowance for various expenditures in its approved budget, the board or its designee(s) may approve payment of such expenditures once an invoice has been presented. It is the opinion of this office that it is not necessary that each invoice be held for payment until the next scheduled Board meeting for approval where the hospital has in place a system, as evidenced in writing on its minutes, for paying authorized expenditures as they become due.

The Board has the authority to delegate any of its powers set forth in [Sec. 41-13-35](#) to the hospital administrator. [Miss. Code Ann. Sec. 41-13-36\(2\)\(d\)](#). As provided in the underlined language of [Sec. 27-105-365](#) above, the Board may also choose to designate other persons authorized to execute checks, particularly in the administrator's absence. This might include, for example, the hospital's chief financial officer. It should be constantly kept in mind, however, that ultimate responsibility for governing the hospital remains with the Board, and this responsibility cannot be delegated away.

Please contact this office if we can provide further assistance on this matter.

Sincerely,

Mike Moore
Attorney General

By: Patricia F. Aston
Special Assistant Attorney General
1997 WL 100802 (Miss.A.G.)
END OF DOCUMENT

Office of the Attorney General State of Mississippi
Opinion No. 2008-00028
February 1, 2008

Re: Community hospital providing financial assistance to county ambulance service

Deborah McDonald Attorney Jefferson County Hospital Board of Trustees
P.O. Box 2038 Natchez, Mississippi 39121-2038

Dear Ms. McDonald:

Attorney General Jim Hood has received your opinion request on behalf of the Jefferson County Hospital Board of Trustees, and has assigned it to me for research and reply.

INQUIRY

You ask whether the hospital board of trustees may provide financial assistance to the county board of supervisors to assist with continued operation of the county ambulance service.

RESPONSE

Yes, it is the opinion of this office that a community hospital may provide financial assistance to the county to assist in supporting the county-owned public ambulance service, pursuant to Sections 41-55-1 and 41-13-35(p).

ANALYSIS

Section 41-55-1 of the Mississippi Code provides, *inter alia*, that governing authorities of counties and municipalities, either separately or jointly, may own, maintain and operate public ambulance services. It goes on to provide, in part, that any political subdivisions, or parts thereof, may contract and "otherwise cooperate" with any county or municipality in carrying out the purposes of that chapter. Furthermore, under the community hospital statutes, Section 41-13-35(p) provides that community hospitals may either provide an ambulance service or "contract with any third party, public or private, for the providing of such service." Finally, Section 41-13-15(3) states that boards of supervisors, in their capacities as owners of community hospitals, may contract with the boards of trustees of community hospitals for "necessary purposes related to the establishment, operation or maintenance of community hospitals and related programs," and both the boards of supervisors and boards of trustees may "receive monies, ... for the purpose of hospital use."

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works. 2008 WL 725149 (Miss.A.G.) Page 2
In a 1988 opinion, this office addressed a similar question of whether a municipality could contribute financial assistance to a community hospital and/or the ambulance service operated by the hospital. *MS AG Op., Spinks (July 29, 1988)*. (See also, *MS AG Op., Ferris (December 10, 1980)*, addressing same question.) However, we have not addressed the question of whether a community hospital may contribute financial assistance to its own county board of supervisors to assist in operation of the county-owned ambulance service.

Reading the above-cited statutory provisions together, particularly 41-55-1 and 41-13-35(p), it is the opinion of this office that the legislature intended to give sufficient powers to counties, municipalities and/or community hospitals to provide for or assist with the providing of ambulance services. Section 41-55-1 allows a community hospital, as a "political subdivision," to contract with or cooperate with a county to carry out the purposes of Title 41, Chapter 55, *i.e.*, the provision of a public ambulance service. See, *MS AG Op., Webb (December 22, 2006)* (a community hospital is a political subdivision). Similarly, community hospitals may, under authority granted in 41-13-35(p), contract with the county for the providing of an ambulance service. Therefore, it is the opinion of this office that a community hospital may provide financial assistance to the county to assist in supporting the county-owned public ambulance service.

*2 If this office may be of further assistance to you, please let us know.

Sincerely, Jim Hood Attorney General
By: Ellen O'neal Special Assistant Attorney General
2008 WL 725149 (Miss.A.G.)
END OF DOCUMENT
© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

2012 WL 679146 (Miss.A.G.) Page 1
2012 WL 679146 (Miss.A.G.)
Office of the Attorney General State of Mississippi
Opinion No. 2012-00002
January 17, 2012

Re: Participation by hospital board of trustees in hospital's self-insured health insurance plan
Elizabeth G. Hooper Wise Carter Child & Caraway, P.A.
P.O. Box 651 Jackson, MS 39205-0651

Dear Ms. Hooper,
Attorney General Jim Hood has received your opinion request on behalf of the Southwest Mississippi Regional Medical Center and has assigned it to me for research and reply. Your inquires are set forth below.

INQUIRY AND RESPONSE

May trustees of a community hospital's board participate in the community hospital's self-insured health insurance plan, so long as no public funds are expended?
No.

BACKGROUND

Southwest Mississippi Regional Medical Center (the "Hospital") is a community hospital. The hospital has established a self-insured health insurance plan ("Plan") for its employees, under which the Hospital contributes a portion of the premium and the employees pay the remainder. For medical expenses that exceed the Plan's paid-in premiums amounts, the Hospital maintains a reinsurance policy. The Plan encourages insureds to use the Hospital's network of facilities and providers by providing some discounts, similar to a private insurer's discounts for insureds using a particular network.

ANALYSIS

As you mentioned in your request, we have opined on more than one occasion that members of boards of trustees of community hospitals may participate in the hospitals' life and health insurance programs by paying the full premiums themselves, so that no public funds are used. MS AG Ops., James (January 6, 2005), Galloway (November 16, 1984).

We note that in MS AG Op. Genin (January 25, 1994), issued prior to the two above-cited opinions, we had

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works. 2012 WL 679146 (Miss.A.G.) Page 2
opined that trustees for a community hospital are not employees for purposes of the hospital's self-funded medical plan under Section 41-13-5(b) and thus could not participate. In the Galloway opinion cited above, issued 11 months after the Genin opinion, we recognized that, where the trustees pay their own premiums such that public funds would not be used, the trustees could participate in the hospital's health insurance plan.

The basis for our opinion in James and Galloway that such participation was lawful was that the trustees would be paying their own premiums and thus no public funds would be used. In both of those opinions, the health insurance was provided by a private health insurer. However, in your scenario, the plan is self-funded. While the trustees' premiums would come from their own pockets, any claims paid under the plan would necessarily be from public funds, since the plan is self-insured by the hospital.

Thus, we opine that hospital trustees may not participate in a hospital's self-insured health insurance plan, even where such trustees pay their own premiums, because the payment of any claims to or on behalf of the trustee would involve the use of public funds.

*2 If this office may be of further assistance to you, please let us know.

Sincerely, Jim Hood Attorney General

By: Ellen O'Neal Special Assistant Attorney General

2012 WL 679146 (Miss.A.G.)

END OF DOCUMENT