

84-00216

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MAR 23 1984

Honorable George Allen Desmond  
Chairman, Bibb County Commission  
103 Davidson Drive  
Centreville, Alabama 35042

Counties - Hospital Boards -  
Officers and Offices - Term of  
Office

The Bibb County Commission may  
remove a member of the Hospital  
Board before the end of his  
term only if he becomes  
incapable of acting as a Board  
member.

Dear Judge Desmond:

Reference is made to the request by the Bibb County  
Commission for an opinion from the Attorney General regarding  
the following matter:

The Bibb County Hospital Board was  
organized on April 27, 1959, under the  
laws of Alabama as a Hill-Burton hospital.  
The Board is made up of nine members, all  
appointed by the Bibb County Commission to  
staggered terms. The opinion the Commission  
is seeking is as follows: Does the Bibb  
County Commission have the authority to  
remove hospital board members before their  
term has expired?

The provisions regarding county Hospital Boards are  
found at Code of Alabama 1975, Section 22-21-70 through  
Section 22-21-83. The members of the Hospital Board are

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appointed by the County Commission as stated in Section 22-21-76, for a term of six years. That Section further provides:

If any director dies, or resigns, or becomes incapable of acting as a director or ceases to reside in the county, the county commission that elected him may elect a successor to serve for the unexpired period of his term.

The above provision sets out the only ways a Hospital Board member does not serve his full term of office. These ways are: (1) death, (2) resignation, (3) if the Board member ceases to reside in the county or (4) if the Board member becomes incapable of acting as a director. The removal of the Board member before the expiration of his term is automatic for the first three reasons stated above and does not require any action on the part of the County Commission. Removal of a member of the Hospital Board from office because he is no longer capable of serving as a director may require removal by the County Commission if the Board member does not voluntarily leave the Board because of his incapability. Thus, incapability is the only reason for which a member of the Hospital Board can be removed by a County Commission before the expiration of his six-year term.

If the County Commission is required to take action to remove a member of the Hospital Board, the member must be notified and there should be a hearing of some type to determine whether there is sufficient cause for the removal. The Supreme Court of Alabama stated in Touart v. State, 173 Ala. 453, 56 So. 211 that where a statute provides for the removal of an officer for cause (such as incapability), it contemplates notice of the charge and a judicial hearing of some kind to determine whether cause for removal exists and whether such officer can be removed.

In summary, the Bibb County Commission may remove a member of the Hospital Board before the end of his term only if he becomes incapable of acting as a Board member.

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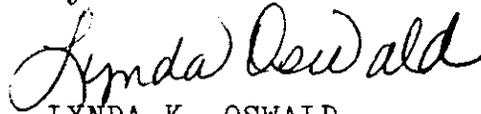
I hope that your question has been adequately answered.

If our office can be of further assistance, please do not hesitate to let us know.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By:



LYNDA K. OSWALD  
Assistant Attorney General

CAG:LKO:n