

1973 WL 26661 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 14, 1973

\*1 Honorable Albert L. Kleckley  
Member  
House of Representatives  
Box 683  
Ridgeland, South Carolina 29936

Dear Mr. Kleckley:

You have inquired as to the validity of Act No. 1870, approved July 21, 1972, which provides, in part:

‘Notwithstanding the provisions of Act No. 787 of 1971 (which created the Jasper County Hospital Commission) the Chief of Staff of the Jasper County Hospital—and the Chief Surgeon of the Jasper County Hospital—shall be appointed by the County Council as an additional members (sic) of the Jasper County Hospital Commission—.’

It is my opinion that this Act has the effect of making the Chief of Staff and the Chief Surgeon ex officio members of the Jasper County Hospital Commission.

It is my further opinion that such action is not unconstitutional. The basis for this conclusion is consideration of the cases cited below. One of these cases precluded from service on a governmental body the Presidents of the Kiwanis, Rotary, Exchange, Optimist and Altrusa Clubs, the Commander of an American Legion Post, and the Presidents of a city Chamber of Commerce and the Trades and Labor Council. The second dealt with membership upon a governmental body of a member of the Columbia Zoological Society. The court held such organizations bore no substantial or rational relationship to the governmental body to which it was sought to have them appointed, in one case, an auditorium commission, and in the other case, a parks commission. The court, however, without expressing a direct opinion upon the issue, strongly indicated that where there exists a rational relationship between the organization or group which the member represents and the governmental institution of which he is to be a member, that such action would be upheld. In my opinion, the Chief of Staff of the Hospital and the Chief Surgeon of the Hospital, and the interest which they represent, bear such a substantial and rational relationship to the governing body of the Hospital. The court noted that the authorities are not uniform and that no fixed rule is deducible from them, but cases cited by the Court uphold the appointment to membership on the Board of Dental Examiners by a corporation of dentists, the appointment to a Medical Examining Board by incorporated Medical Societies, and the appointment of a City Fire Commissioner upon the Board of Fire Underwriters.

It is my opinion that Act No. 1870 of 1972 is valid.

Very truly yours,

Daniel R. McLeod  
Attorney General

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