



GEORGIA DEPARTMENT OF LAW

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

www.law.ga.gov
(404) 656-3300

Writer's Direct Dial:
404-651-6247
Fax 404-657-3239

September 20, 2011

R. Ross Burris, III, Esq.
Nelson, Mullins, Riley & Scarborough, LLP
201 17th Street, Suite 1700
Atlanta, Georgia 30363

RE: Proposed Transaction Involving Cedartown-Polk County Hospital Authority
and the Hospital Authority of Floyd County

Dear Mr. Burris:

This responds to your request regarding the application of the Hospital Acquisition Act to a proposed transaction involving Columbia Polk General Hospital, Inc. ("Columbia Polk"), the Cedartown-Polk County Hospital Authority (the "Authority"), and the Hospital Authority of Floyd County (the "Floyd Hospital Authority").

From the information you have provided, it is my understanding that Columbia Polk currently operates Polk Medical Center in Polk County pursuant to a lease that will likely terminate in December of 2011. Columbia Polk is a for-profit corporation. When the lease terminates, the Authority will reclaim the property that is the subject of the lease and will also purchase certain assets owned by Columbia Polk. Once the Authority acquires the property and assets, it will lease all property and assets to the Floyd Hospital Authority. The Floyd Hospital Authority is located in Floyd County which is contiguous to Polk County where the Authority is located.

You have requested confirmation that the Hospital Acquisition Act does not apply to the Authority's termination of the lease and purchase of the assets from Columbia Polk because it is a for-profit hospital. Your view is that the transaction between Columbia Polk and the Authority is not subject to review under the Act. My understanding is that assets that belong to the Authority are simply returning to possession of the Authority due to the termination of a lease with Columbia Polk and that the Authority is purchasing certain other assets from Columbia Polk which is a for-profit entity. Since Columbia Polk is a for-profit corporation, the definition of "[a]cquisition" in O.C.G.A. § 31-7-400(2) is not satisfied. Therefore, the Act does not apply to the described transaction between the Authority and Columbia Polk.

You have also requested confirmation that the Attorney General's review is not a prerequisite to the Authority leasing its assets to the Floyd Hospital Authority for a five (5) year period. You have indicated that you base your conclusion that review is not required on O.C.G.A. § 31-7-89.1(c).

O.C.G.A. § 31-7-89.1 provides:

- (a) As used in this Code section, the term "control" means ownership of 50 percent or more of the assets of the entity in question or the ability to influence significantly the operations or decisions of the entity in question.
- (b) *The sale or lease of assets of a hospital owned or operated by a hospital authority to an individual, business corporation, general partnership, limited partnership, limited liability company, limited liability partnership, joint venture, nonprofit corporation, hospital authority, or any other for profit or not for profit entity shall be subject to the notice, hearing, certification, enforcement, and other requirements of Article 15 of this chapter which are applicable to dispositions of nonprofit hospitals to acquiring entities if the disposition of assets constitutes a sale or lease of 50 percent or more of the assets of a hospital having a permit under this chapter or constitutes a sale or lease which, when combined with one or more transfers between the same or related parties occurring within a period of five years, constitutes a sale or lease of 50 percent or more of the assets of a hospital having a permit under this chapter; provided, however, that the provisions of this Code section shall not apply to the restructuring of a hospital owned by a hospital authority involving a lease of assets to any not for profit or for profit entity which has a principal place of business located in the same county where the main campus of the hospital in question is located and which is not owned, in whole or in part, or controlled by any other for profit or not for profit entity whose principal place of business is located outside such county.*
- (c) *Notwithstanding the provisions of subsection (b) of this Code section, the sale or lease of assets of a hospital owned or operated by a hospital authority to another hospital authority whose area of operation is a county contiguous to the county in which is located the hospital whose sale or lease is proposed shall not be subject to the requirements of Article 15 of this chapter.*
- (d) Notwithstanding any other provision of this article to the contrary, a hospital authority which is located in a county having a population of 50,000 or fewer, according to the United States decennial census of 1990 or any future such census, may locate a project outside that hospital authority's area of operation if

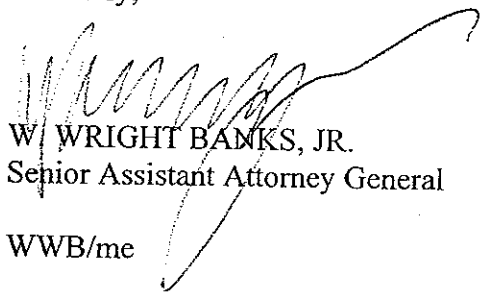
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such location is in a county which is contiguous to the county of such hospital authority's area of operation.

(Emphasis added.) The Hospital Acquisition Act, O.C.G.A. §§ 31-7-400 through 31-7-412, is Article 15 of Chapter 7 of Title 31. Thus, O.C.G.A. § 31-7-89.1(c) creates an express exception for transactions involving the sale or lease of a hospital owned by a hospital authority if the sale or lease is made to "another hospital authority whose area of operation is a county contiguous to the county in which is located the hospital whose sale or lease is proposed" In the transaction you have described, the Authority will lease the property and assets of Polk Medical Center to the Floyd Hospital Authority for a period of five years. The area of operation of the Floyd Hospital Authority is in Floyd County. The area of operation of the Authority is in Polk County. Floyd County is contiguous to Polk County. Therefore, the proposed transaction that you have described is excepted from review under the Act by O.C.G.A. § 31-7-89.1(c).¹

Please note that in reaching this conclusion, we relied solely on the facts you presented; we did not perform a separate factual investigation. In addition, we have considered only whether the Act applies under the particular facts and circumstances you presented. We have not addressed other issues that may exist or the application of any other laws, rules or regulations to the transaction and have not anticipated any possible factual changes.

Sincerely,



W. WRIGHT BANKS, JR.
Senior Assistant Attorney General

WWB/me

¹ Some of the information you provided makes reference to other future transactions that may be contemplated related to Polk Medical Center and/or a successor hospital. This letter does not address the application of the Act to any such transactions.