

October 25, 2019

Board of Directors  
Trinity Memorial Hospital District  
P.O. Box 3169  
Trinity, Texas 75862

RE: Dissolution Petition

Dear Board Members:

On October 21, 2019, Trinity Memorial Hospital District (“TMHD”) was presented with a “Petition for an Election for the Dissolution of the Trinity Memorial Hospital District pursuant to Section 286.102-286.106 of the Texas Health and Safety Code.” Please be advised that this statute does not apply to TMHD, and the enabling legislation creating TMHD, which is found in Texas Special District and Local Laws Code, Chapter 1108 (“TMHD’s Enabling Legislation”) does not have any similar language providing procedures for or otherwise allowing for the dissolution of TMHD. Therefore, TMHD **has no authority** to order the dissolution election or otherwise dissolve at this time.

By way of background, a hospital district’s powers and duties are determined by looking at the constitutional provision that authorized its creation, its enabling act, and other provisions of the Health and Safety Code applicable to both general and special hospital districts. *See Tex. Att’y Gen. Op. No. DM-37 (1991) at 1-2.* As a special district, TMHD may exercise only those powers that are expressly delegated to it by the legislature through the TMHD’s Enabling Legislation, other statutes applicable to special hospital districts, or those powers which exist by clear and unquestioned implication. *See Tri-City Fresh Water Supply Dist. No. 2 v. Mann, 142 S.W.2d 945,946 (Tex. 1940); Jackson County Hosp. Dist. v. Jackson County Citizens for Continued Hosp. Care, 669 S.W.2d 147, 154 (Tex. App.—Corpus Christi 1984, no writ).*

TMHD was created and established pursuant to Article IX, Section 9 of the Texas Constitution and TMHD’s Enabling Legislation. Article IX, Section 9 provides in part that:

The Legislature may also provide for the dissolution of hospital districts ***provided that a process is afforded by statute*** for: (1) determining the desire of a majority of the qualified voters within the district to dissolve it; (2) disposing of or transferring the assets, if any, of the district; and (3) satisfying the debts and bond obligations, if any, of the district.... *See TEXAS CONSTITUTION, Art. IX, Sec. 9.*

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Although, the Constitution allows for dissolution of a hospital district subject to voter approval, the Constitution requires that the legislature must first authorize such a dissolution and provide the process through a statute, which has not been done with regard to TMHD. *See Tex. Att’y Gen. Op. No. JM-859 (1988)* (“Article IX, Section 9, of the Texas Constitution confers authority, not on the governing bodies of hospital districts, but rather on the legislature”).

In conclusion, while Article IX, Section 9 of the Texas Constitution does authorize the Texas Legislature to provide for the dissolution of a hospital district, here the legislature has not done so with respect to TMHD. Specifically, the Texas legislature has not provided any dissolution language or procedures in TMHD’s Enabling Legislation, nor is there any other statute in the Texas Health and Safety Code, or elsewhere, applicable to TMHD that provides procedures for or otherwise allows for the dissolution of TMHD. The petition presented to TMHD only applies to a general hospital district created under Chapter 286 of the Texas Health and Safety Code, which TMHD was not.

Therefore, TMHD **has no authority** to order the dissolution election or otherwise dissolve at this time. If TMHD were to order a dissolution election, it would not only be exceeding its statutory authority, but the election would not be valid, and doing so could result in legal action being taken against TMHD.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Robert L. Spurck