

ERIE COUNTY
DEPARTMENT OF LAW
AUG 19 4 27 PM '88

RECEIVED
ERIE COUNTY
LEGISLATURE

COUNTY OF ERIE

AUG 19 3 42 PM '88

LOCAL LAW NO. **9-1988**

LOCAL LAW INTRO. NO. 9 (Print #4)

1988

A LOCAL LAW amending Local Law No. 1-1959, as amended by Local Law No. 2-1985, constituting the Erie County Charter as amended, repealing Section 1602 of Article XVI, and substituting a new Section 1602, and amending Local Law No. 1-1960, as amended by Local Law No. 2-1985, constituting the Erie County Administrative Code, repealing Section 16.02 of Article XVI, and substituting a new Section 16.02, thereby providing the powers and duties of the Erie County Medical Center's Board of Managers, Chief Executive Officer and Treasurer.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE, AS FOLLOWS:

Section 1. The Erie County Charter, Section 1602 of Article XVI thereof, as amended, is repealed in its entirety and a new Section 1602 is substituted therefor as follows:

Section 1602. Erie County Medical Center; Board of Managers; Chief Executive Officer; Treasurer.

A. Legislative Intent. It is found, declared and determined that the Erie County Medical Center is a public purpose institution and was built and exists in all respects for the benefit of the people of the county of Erie to provide quality services without respect to ability to pay. The exercise by the board of managers of its ascribed functions, powers and duties as hereinafter provided, constitutes the performance of an essential public governmental purpose.



B. 1. There shall be a medical center board of managers of thirteen members who are resident citizens of the county of Erie appointed for five year staggered terms. The county executive shall make the appointments for ten (10) positions, the chairman of the Erie county legislature shall make the appointment for one (1) position, and the enrolled members of each of the two political parties which have the greatest number of members seated in the Erie county legislature shall by majority vote make the appointment each for one (1) position, and all such appointments shall be subject to confirmation by the Erie county legislature.

2. Of those eleven members first appointed, three (3) shall have been appointed for a term of five (5) years, two (2) appointed for a term of four (4) years, two (2) appointed for a term of three (3) years, two (2) appointed for a term of two (2) years, and two (2) appointed for a term of one (1) year. The Chairman of the Erie county legislature shall designate one of the two positions which next become vacant by expiration of the original term after approval of this local law at referendum, which position shall then and thereafter be the position to be appointed by the Chairman of the Erie county legislature with the appointee serving for a term of five (5) years. The two board members first appointed by the members of the Erie county legislature shall each serve for a term of four (4) years.

Appointments of successors shall be for the full term of five years except that the appointment of a person to fill a vacancy occurring by death, resignation or cause other than the expiration of a term shall be made for the unexpired term. Board members shall hold over and continue to discharge the duties of their office after the expiration of the terms of their appointment until a successor has been chosen and qualified. Nothing contained herein shall divest any present board member of his previously appointed term and any present vacant position shall be filled for the balance of the original term.

3. No member of the board shall serve in any salaried or elected position in Erie county government. No member of the board of managers shall have any financial interest in the medical center nor shall any member sit on an advisory or governing board of any other hospital. Members shall serve without compensation for their services as members of the board except as otherwise provided by resolution of the Erie county legislature. Members shall, however, be entitled to be reimbursed for actual expenses in performing the duties of their office.

4. The county of Erie hereby agrees to confer upon each present or future member of the board of managers the benefits of section eighteen of the public officers law of the

State of New York, as it now exists or hereafter may be amended, and to be held liable for the costs incurred by each such board member under the provisions of such section.

C. The board of managers shall have and exercise all the powers and duties of a board of managers of a public general hospital under New York statutes not inconsistent with the provisions of this Section of the Erie County Charter, and shall also have and exercise those powers and duties conferred or imposed on the board by the Erie County Charter, the Administrative Code, and subsequent local law. Except as otherwise specifically provided, this Section shall supercede all other provisions of the Erie County Charter and Administrative Code as to the matters herein contained, and in accordance therewith, the board shall exclusively have and exercise the following powers and duties:

1. The board shall have the general superintendence, management and control of the Erie County Medical Center and of the grounds, buildings, officers, employees, staff and patients thereof; and of all matters relating to the government, discipline, contracts (except for collective bargaining agreements), and fiscal concerns of the medical center. The board shall make such rules and regulations as may seem to it necessary for carrying into effect the purposes of the medical center and providing for its operation and sound management. Nothing



contained herein shall effect the responsibility of the county of Erie to negotiate with the recognized and certified collective bargaining agent for employees at the medical center.

2. The board shall maintain an effective inspection of the medical center and keep itself informed of the affairs and management thereof and shall periodically review the progress, environment, and direction of the medical center. The board shall adopt by-laws which among other things shall govern the time, place, and conduct of board meetings.

3. The board shall provide for the medical care and treatment of all persons admitted to the medical center; and shall appoint and may remove members of the medical and dental staff; and shall establish rules and regulations governing the service thereof and approve the medical-dental staff by-laws which shall comply with the New York State Public Health Law and all other applicable laws and regulations, provided that nothing herein shall diminish the rights and protections guaranteed by any collective bargaining agreement.

4. The board shall appoint and, subject to legislative appropriations provided therefor and the provisions of paragraph 8(a) of subdivision C of this Section, fix the compensation of the medical center superintendent, the medical director and the medical center chief financial officer. The medical

center superintendent shall be, and have the title of, the Erie County Medical Center chief executive officer. The chief executive officer shall be appointed on the basis of his training and experience in hospital administration, shall not be a member of the board, and shall hold office at the pleasure of the board. The chief executive officer of the medical center shall have and exercise all the powers and duties of a superintendent of a public general hospital under New York statutes not inconsistent with this Section of the Erie County Charter, and shall also have and exercise those powers and duties conferred or imposed by the Erie County Charter, the Administrative Code, and subsequent local law.

5. The board shall elect the Erie County Medical Center treasurer who shall have the authority to direct that all proper bills and accounts of the medical center, including salaries and wages, be paid. The county chief fiscal officer shall disburse the funds directed paid by the medical center treasurer. The medical center treasurer shall also have the authority, subject to approval by the medical center board, the county executive, the county chief fiscal officer, and the county legislature to: (1) establish bank accounts in the name of the Erie County Medical Center, and deposit therein all monies received or collected by the medical center; and (2) receive and have custody of all funds of the medical center, including funds

received from the county's general fund, charges, fees, medicaid, medicare, private insurers, patient payments, and funds from all other sources. The board may delegate some or all of the duties of a treasurer to a medical center chief financial officer.

6. The board shall adopt an overall charge schedule for the medical center and approve any revisions thereto, including, but not limited to, charges for patient rooms, all ancillary services, supplies, medications and special services, provided that such charge schedule and any revisions thereto shall be consistent with all applicable statutes and regulations of the State of New York and Federal government and shall not impair, prevent, or interfere with the delivery of free care to the indigent. The board shall notify the Erie county executive and Erie county legislature of all proposed fee and charge increases prior to enactment and imposition.

7. The board may institute actions at law and in equity for the collection of claims and obligations due to the medical center from any and all causes, and may prosecute, compromise or settle such claims and obligations, or waive the collection of all or any portion of any uncollected claims or obligations, retain counsel to conduct such litigation, and contract with a private collection agency for the collection of overdue claims and obligations. No collection activity or procedure

shall impair, prevent, or interfere with the delivery of free care to the indigent. The board will report at least annually to the county legislature, the county executive, and the county chief fiscal officer following action by the board waiving the collection of claims or obligations.

8. The payment of bills and accounts payable for the operation and maintenance of and capital improvements to the medical center shall be approved by the board for expenditure by such board through the Erie County Medical Center treasurer subject to the following:

a. The board shall submit a proposed tentative operation and maintenance budget, including cash flow projections, to the county executive at such time and in the format prescribed by the county director of budget and management. Said operation and maintenance budget shall be reviewed by the county director of budget and management and the county executive, who shall submit their recommendations with the county budget each year to the Erie County Legislature. After final approval of the operation and maintenance budget by the county executive and the county legislature, the county shall pay to the medical center the funds designated in the county budget as the "transfer of funds appropriated from the county general fund to the Erie County Medical Center Fund", as such designation may be amended

from time to time, in periodic interim payments as agreed upon between the board, the county chief fiscal officer and the director of budget and management. The board shall have the discretionary power to make transfers and adjustments within and between all accounts within the adopted budget, as it deems necessary for the operation of the medical center. A copy of each budget transfer shall be provided to the county director of budget and management and the clerk of the Erie county legislature within thirty days of the board's approval of same.

b. The board shall submit a proposed tentative capital budget and program, including cash flow projections, to the county executive at such time and in the format prescribed by the county director of budget and management. Said capital budget and program shall be reviewed by the county director of budget and management and the county executive, who shall submit their recommendations with the county budget each year to the Erie County legislature. Said proposed tentative capital budget and program shall be reviewed as provided in sections 1802 and 1803 of the Erie County Charter and sections 18.03 and 18.04 of the Administrative Code, as these sections now exist or hereafter may be amended. After final approval of the capital budget and program by the county executive and the county legislature, the board shall have the discretionary power to make transfers and adjustments between all accounts within an approved capital

project, subject to any provisions of a bond or note resolution relating to the project. A copy of each such transfer shall be provided to the county director of budget and management and the clerk of the Erie county legislature within thirty days of the board's approval of same.

c. Subject to Civil Service Law and Rules and to all provisions of applicable collective bargaining agreements, the board shall have the power to create and abolish full-time and part-time permanent or temporary positions of employment. Assignment of job groups, except in the case of the medical center chief executive officer, medical director and chief financial officer, shall be certified by the County Department of Personnel. When the medical center is unable to fill a position with a qualified person at the lowest salary level for the job group assigned to the position, the board may fill such position at a higher salary increment within the assigned job group with the approval of the County Department of Personnel.

d. No payment shall be authorized or made and no obligations incurred except in accordance with appropriations duly made, or except as otherwise permitted by the Charter or the Administrative Code; provided that this shall not be construed to prevent the board from entering into any lawful contract or lease providing for the payment of funds beyond the end of the current fiscal year.

e. If at any time during the fiscal year it appears that the medical center revenues available will not be sufficient to meet the amounts appropriated, or that the actual year to date expenditures will exceed the amounts appropriated, the board of managers shall report to the county executive and the county legislature within thirty days of the identification of the shortfall the estimated amount of the deficit, remedial action to be taken, and recommendations for further action. Failure to do so shall constitute cause for removal of members of the board from office by the county executive with the approval of the county legislature.

9. a. The board shall have the power to make all purchases of, leases, and contracts for all necessary furniture, appliances, fixtures, equipment, materials, drugs and supplies, and other needed items for the operation of the medical center. The board may designate the medical center chief executive officer as its purchasing agent who in turn may delegate such function to his designee and who shall supervise the personnel responsible for the purchasing duties and responsibilities hereunder in conformity with the provisions of this Section, generally accepted principles of management and procurement, and policies established from time to time by the board.

b. The board shall have the authority to



approve all contracts for services rendered by the medical center and for services rendered to or for the medical center, including professional, technical and other consultant services, except that in the case of any hospital management contract as defined in New York State Health Department regulations, such contract shall also be approved by the county legislature. The board may authorize the the medical center chief executive officer to sign and execute all such contracts on behalf of the medical center. No service provided by employees covered by a collective bargaining agreement shall be contracted out without conducting prior negotiations with appropriate bargaining units and following all procedures required by Section 209 of the Civil Service Law of the State of New York.

c. The board shall have the authority to make all necessary capital improvements and all necessary ordinary repairs to any existing buildings and grounds used for the medical center, provided that any capital improvements as defined in the New York State Local Finance Law have been approved by the county executive and the county legislature as part of the capital budget. The board shall have the authority to approve all contracts for such capital improvements and ordinary repairs, except that it shall not enter into any such contracts to be financed by bonds or notes unless the county executive and the county chief fiscal officer have certified that proceeds from

such bonds or notes are available. The board may authorize the medical center chief executive officer to execute all contracts for such capital improvements and ordinary repairs.

d. All contracts to be executed by the board or by the chief executive officer on behalf of the medical center shall be approved as to form by the county attorney. A copy of each such contract should be filed with the county attorney and the county chief fiscal officer.

e. The procedures for purchasing, including public advertising, competitive bidding, and/or requests for proposals, shall be the same as those set forth in section 306 of the Charter and sections 3.06, 3.07 and 19.08 of the Administrative Code as these sections now exist or hereafter may be amended, except that where those sections specify that action may be taken by the county legislature, the action of the medical center board of managers shall be substituted and be sufficient, and where those sections specify that action may be taken by the county executive, the division of purchase and/or the purchasing director, the action of the medical center chief executive officer shall be substituted and be sufficient.

10. The board is authorized to accept and administer all grants, awards and gifts made to the medical center by any person or outside agency including the state and federal



governments. It may accept grants, awards and gifts requiring matching of funds or of other financial commitments on the part of the county only where such funds can be obtained from approved budget sources.

11. The board shall have the authority to approve all Certificate of Need applications to be submitted to the New York State Department of Health. The board may authorize the chief executive officer to prepare and submit such applications. The medical center shall not eliminate or reduce any service requiring submission of a Certificate of Need application pursuant to the New York State Public Health Law and regulations without notifying and consulting with the county executive and the county legislature prior to submitting such application.

12. The board may provide for periodic, independent audits of all accounts maintained and of all bills and accounts payable out of the funds of medical center in addition to the annual independent audit provided for in sections 211, 301(n), and 1813 of the Charter, as these sections now exist or hereafter may be amended. All the books and accounting procedures of the medical center shall be kept in conformity with applicable state and federal requirements and shall be subject to audit by the comptroller of the county of Erie. The board shall render reports respecting any and all receipts and expenditures

of the medical center as the county executive and county legislature shall request.

13. The Erie county legislature strongly supports the relationship between the Erie County Medical Center and the School of Medicine and BioMedical Sciences of the State University of New York at Buffalo. The board shall take all appropriate actions to retain and enhance the benefits arising from said relationship. The medical center shall provide the Erie county legislature with an annual report on the status of the affiliation agreement and any changes related thereto.

14. The board shall deliver to the county legislature, the county executive and the county chief fiscal officer a detailed quarterly report of the operations of the medical center and such other information as shall be requested from time to time.

Section 2. Erie County Local Law No. 2-1985, which amended Erie County Local Law No. 1-1960, constituting the Erie County Administrative Code, by amending Section 16.02 of Article XVI thereto, is hereby repealed in its entirety and a new Section 16.02 is substituted therefor as follows:

Section 16.02. Erie County Medical Center; Board of Managers; Chief Executive Officer; Treasurer. The Erie County

Medical Center board of managers shall have and exercise all the powers and duties of a board of managers of a public general hospital under New York statutes not inconsistent with the provisions of Section 1602 of the Erie County Charter and shall also have and exercise those powers and duties conferred or imposed by the county charter, this code and subsequent local law of the county legislature. The Erie County Medical Center chief executive officer shall have and exercise all the powers and duties of a hospital superintendent of a public general hospital under New York statutes not inconsistent with the provisions of Section 1602 of the Erie County Charter, and shall also have and exercise those powers and duties conferred or imposed by the county charter, this code, and by subsequent local law of the Erie county legislature. The Erie County Medical Center treasurer shall have and exercise all the powers and duties of a treasurer of a public general hospital under New York statutes not inconsistent with the provisions of Section 1602 of the Erie County Charter, and shall also have and exercise those powers and duties conferred or imposed by the county charter, this code, and by subsequent local law of the Erie county legislature.

Section 3. This local law shall take effect on January 1, 1989 subject to its having been approved by the electorate at the general election to be held in the county of



Erie next succeeding the date on which this law shall have been approved by the county legislature and county executive pursuant to the Erie County Charter.

David M. Manz

