

Legislature’s Counsel Says Hospital Board Broke Law by Naming One CEO Over Both Territory Hospitals

A legal opinion requested by Sen. Milton Potter says the Gov't and Health Facilities Corporation acted outside its statutory authority by consolidating leadership of Schneider and Juan F. Luis and placing both hospitals under one chief executive officer.

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Did the V.I. Government and Health Facilities Corporation act outside of its legal jurisdiction by appointing one chief executive officer to oversee the territory’s hospitals as part of an integration activity? The Legislature’s legal counsel believes this to be the case.

Upon the request of Senator Milton Potter, Attorney Nandi Sekou stated that the “brief answer” is that the Corporation does not possess that authority under “applicable statutory law.”

According to Attorney Sekou, there is “a clear legislative intent to have one chief executive officer for the Roy Lester Schneider Hospital and Medical Center, and one chief executive officer for the Juan F. Luis Hospital.” Therefore, “the action of the corporation is in direct contravention to the legislative intent and the law,” maintained the attorney.

She highlighted several sections of the Virgin Islands Code that supported her opinion, including the use of the phrase chief executive officers, “denoting more than one.” According to Attorney Sekou, several other provisions establish a “legislative intent that each hospital will be managed by a chief executive officer.”

Attorney Sekou noted, as well, that Title One of the Code provides that “words and phrases shall be read with their context and shall be construed according to the common and approved usage of the English language.” She used that requirement to build an argument that, though certain provisions within the statute may be “ambiguous,” the legislative intent is “very clear.”

“The Legislature has given the Corporation the authority to appoint and remove chief executive officers, but has not given it the authority to appoint a single chief executive officer for both hospitals,” she said.

The Legislature’s legal counsel has therefore determined that the Corporation acted ultra vires or outside of its statutory authority by “consolidating services of the Roy Lester Schneider Hospital and Governor Juan F Luis Hospital, and appointing one chief executive officer for both hospitals.”

Senator Kurt Vialet questioned the Corporation’s chair Dr. Jerry Smith as to why the Legislature was not consulted, or why the Corporation did not “advance legislation and explain the intent of the board and let it be placed in a bill.” Their failure to do so means there are several provisions “that would need to be corrected in the Code,” Senator Vialet noted.

It was not immediately clear if Mr. Vialet was amenable to doing so, given his disappointment that the Corporation had gone against written law.

The Corporation, however, seems to feel otherwise. According to Dr. Smith, the legal opinion received by the entity “is very different [to] the legal advice that the Senate has just received.” Having received the Legislature’s opinion moments prior, he stated that he was not prepared to comment on it.

Still, Dr. Smith assured Senator Vialet that “the guidance that we got from our legal counsel directed us in a different direction.” He could not recall, however, whether the legal advice was delivered orally or in a written format. Dr. Smith has promised to supply the Legislature with the Corporation’s legal perspective.

“At the end of the day, we all want the same thing, which is quality health care. However, the legislation is always placed in a strange position when central government or a semi-autonomous or autonomous entity don’t follow what is in the Virgin Islands Code,” Senator Vialet lamented.

“Definitely legislation to be crafted, but the big question is why are we always doing it after instead of doing it before?” he wondered.

As Dr. Smith later clarified to Senator Potter, “What was done was not going around the legislation in any way. It was adapting the contractual arrangements to work within the legislation.”

Senator Kenneth Gittens has requested that the Legislature’s legal counsel, in writing, advise on the “appropriate course of action for this body to take.”

Meanwhile, Senator Marise James offered another perspective, illustrating the potential ambiguity in the laws. “A parent organization has the authority to decide how many CEOs it will have,” she said, drawing a metaphor between the Corporation and entities in the corporate world. The hospitals, in this case, act as subsidiaries.

“Again, legal opinions are opinions of the person issuing it, and when statutes are ambiguous, they can lead to different interpretations,” Senator James said. Notwithstanding, Attorney Sekou maintained her opinion, drawing attention to explicit references to the named hospitals in the law.

It is unclear what the next steps will be, but what is certain is that Darlene Baptiste, who was initially appointed as the chief executive officer for the Juan F Luis Hospital, [has now been tasked with managing both hospitals.](#)