

ELEEMOSYNARY INSTITUTIONS:

Board of Managers ^{may} by rule provide that when accommodations are limited psychotic cases may be given preference over senile dementia cases.

December 13, 1941

12-16

Mr. Ira A. Jones
President, Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri



Dear Sir:

This Department is in receipt of your request for an official opinion which reads as follows:

"The following motion was passed at a meeting of the Board of Managers, State Eleemosynary Institutions, on November 9, 1941:

"In view of the overcrowded condition of the four mental hospitals, and, that a number of counties have been sending to the State Hospitals elderly and senile persons who are adjudged mental incompetents, but are not psychotic and do not need treatment as such, the superintendents of the respective State Hospitals are instructed to give preference to the psychotic cases in the matter of admissions up to the capacity of the various institutions, and not to receive senile cases where it will prevent the reception of psychotic cases of a more urgent nature, but to place such application for such senile patients upon proper list to be received as soon as there is room for their reception and, meanwhile to require their county

courts or other sources making application or commitments of patients to furnish proper questionnaire disclosing the type of such patients in order that their status in this connection may be determined in advance of their admission.'

"We would like to have an opinion from your office that this is legal before we circularize the county clerks."

Under Section 9328, R. S. Mo. 1939, it is provided that "The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto."

Section 9330, R. S. Mo. 1939, provides as follows:

"The indigent insane of this state shall always have the preference over those who have the ability to pay for their support in a state hospital; and if there are not provisions in the state hospitals for the accommodation of all the insane persons in the state, then recent cases of insanity, by which term are meant cases of less than one year's standing, shall have preference over cases of more than one year's standing: Provided, no county shall have in the institution more than its just proportion, according to its insane population."

In Section 9358, R. S. Mo., 1939, the word "insane" is defined as "including every species of insanity or mental derangement."

Under the above statutes it will be seen that the indigent insane sent by the counties to the state hospitals cannot be classified according to types of insanity but preference is given to those whose insanity is of recent origin. We

believe that the obvious purpose of this preference is that those whose insanity is not of long standing may be cured or at least helped in a better and more efficacious fashion than those whose insanity is of long duration. This view is supported by the other statutes dealing with the state hospitals. Section 9274, R. S. Mo. 1939, provides that the Board of Managers of the State Eleemosynary Institutions shall appoint a health supervisor who shall be skilled in the science of psychiatry and shall have at least seven years' experience as a physician. Section 9284, R. S. Mo. 1939, provides that the duties of this health supervisor shall be to direct in the manner of the treatment of the health and sanitation of the several institutions under his charge and management, and shall advise and counsel with the superintendents thereof and the several assistant physicians therein.

The 1941 General Assembly passed a statute to be known as Section 9283a (Laws of Missouri, 1941, page 689), which reads as follows:

"The state eleemosynary board, upon the joint recommendation of the president of the board and the superintendent of each institution concerned, shall have authority to appoint surgeons, pathologists, clinical directors, statisticians, radiologists, dentists, psychologists, anesthetists and other technical and professional employees necessary to the welfare of the several institutions; and the compensation therefor shall be fixed by the superintendent, with the approval of the board."

A reading of the above provision shows that the whole method and intent of the Legislature in providing for state hospitals is to provide a place at which the insane may be treated and if possible cured. Therefore, this intent of the Legislature must be kept in mind in construing the rights and powers of the Board of Managers of State Eleemosynary Institutions.

Section 9263, R. S. Mo. 1939, provides that the Board of Managers shall have the authority to make all necessary rules,

regulations and by-laws for the management of each institution. Since the intent of the Legislature is to provide institutions for the cure or rehabilitation of the insane rather than for the care and confinement of the same, we believe that the Board of Managers may by rule and regulation provide that in case the accommodations in such state institutions are limited that those persons who may be cured or rehabilitated should be admitted in preference to those who have no chance of regaining their sanity.

Senile dementia, or insanity caused by old age, is graphically defined in *Byrne v. Fulkerson*, 254 Mo. 97, l. c. 121, as follows:

"Of this affliction learned authors say that it 'begins, as a rule, so gradually that its boundary line cannot be fixed. It is marked by progressive decay of the mental faculties, of which memory is one of the first to fail; and the loss of memory is at first more marked for recent than for remote events. The instincts and affections change, the tastes alter, and the sense of delicacy often suffers. In the purely intellectual sphere we observe an impaired judgment and a weakened power of attention. There is apathy, indifference to current events, and a disposition to be interested in trifles. The emotions become unstable. Some of these patients are irritable, easily excited, prone to weep easily and without much apparent cause A not unusual form of senile dementia is a type of delusional insanity. In advanced cases, especially, in which all the mental and moral faculties are clouded, delusions are observed. These delusions are usually of a depressive or persecutory kind; a common one is the idea of loss of property, or of being robbed."

It will be seen, therefore, that insanity caused by old age is a progressive mania in which the patient gradually

gets worse and the chance of rehabilitation or cure is very small.

It must be pointed out that Section 9330, supra, provides that a preference shall be given to those cases which are of less than one year's duration. Therefore, in order for the rule and regulation, quoted in your request, to be valid, the affliction in the psychotic case must be of less than one year's duration. If such case is of more than one year's duration and an application is made by a person suffering from senile dementia who has been afflicted for less than one year, then the latter must be admitted in preference to the former.

Therefore, we believe that the rule set forth in your request that psychotic cases shall be given preference over persons suffering from senile dementia, is a proper and valid exercise of the powers of the Board of Managers of State Eleemosynary Institutions.

Conclusion

It is, therefore, the opinion of this Department that the Board of Managers of the State Eleemosynary Institutions may by rule and regulation provide that where accommodations are limited that preference may be given to psychotic cases of less than one year's duration over patients suffering from senile dementia of less than one year's duration, because the intent and purpose for which our state institutions were established was for the cure or rehabilitation of the same rather than as a place of confinement.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney-General

APPROVED:

VANE C. THURLO