

ELEEMOSYNARY  
INSTITUTIONS -

State Superintendent has no authority to act as agent or representative for a patient in the signing of checks or transaction of private business matters.

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December 19, 1941

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

12-23

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Dear Sir:

We are in receipt of your letter of December 11, 1941, wherein you request an opinion from this Department on the following statement of facts:

"Would you give me an interpretation or would you ask the Attorney-General for an opinion on the following question that has come to my attention.

"Occasionally a patient will have a small amount of money due him on an insurance policy, and the Insurance Company will forward this amount in the form of a check to the patient. Very often in these cases, we feel that the patient is mentally incompetent to endorse this check, and too, some patients will refuse to endorse their check.

"On what authority can the Superintendent endorse and cash these checks and place them to the credit of the patient? Is there a law in Missouri that authorizes the Superintendent of a Mental Hospital to collect funds which are due mentally incompetent patients, especially if the patient does not have a legal guardian?

"These questions have been raised by Insurance Companies insisting that the Superintendent receive and receipt checks,

and state that the family or relatives of these patients do not feel there is sufficient money rebated to pay for the expense of having a guardian appointed.

"A Probate Court and a Lawyer representing a patient's family as executor of a will, asks that I receive and receipt a check for a mentally incompetent patient in my Hospital, in order that an estate may be settled. In this case there has been no guardian appointed. I refused to accept this check on the grounds that I do not feel that being a Superintendent, makes me a legal guardian for patients under my care, nor do I feel that I can act as an Agent for this mentally incompetent patient, in signing papers in the procedure of settling up this estate."

Section 9278 R. S. Missouri, 1939, provides, as follows:

"The person appointed as superintendent of each of the several eleemosynary institutions herein named shall have complete charge, control and management of the entire institution with special attention to the health and sanitation of the respective institution over which he has been appointed as manager, and shall devote his entire time thereto, and shall receive, unless otherwise provided for, the sum of \$3,600.00 per annum, to be paid monthly, together with all necessary and actual traveling expenses. The superintendent of the Missouri state school shall receive the sum of \$3,600.00 per annum, to be paid in monthly installments, together with all necessary and actual traveling expenses."

It will be noted from a reading of this Section that it provides that the superintendent shall have complete charge, control and management of the entire institution with special attention to the health and sanitation of the respective institution over which he has been appointed manager.

Section 9300 R. S. Missouri, 1939, provides:

"All moneys received by any institution for the support of patients therein, from whatever source received, shall be paid into the state treasury, and shall be placed to the credit of the fund for the support of the eleemosynary institutions."

This latter Section provides that all moneys received for the support of patients therein, from whatever source, shall be turned over to the State Treasurer. Of course, it will be particularly noted that this Section has reference only to the money for the support of the patients and we do not think has application to petty funds that might be placed in the hands of the superintendent for the private use of any particular patient. However, we do not find any section which directly, or by inference, clothes the superintendent, or any other person connected with an eleemosynary institution, with authority to transact private business matters for, and on behalf of, any of the patients of the institution. In absence of any statutory authority, it is our opinion that whenever there are funds due any particular patient, that a court of competent jurisdiction in the county from which said patient is a resident should appoint some suitable person as guardian for the patient, with power to receive the funds and make the necessary endorsements on checks and sign the necessary papers.

Mr. Ira A. Jones

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December 19, 1941

CONCLUSION

In conclusion it is the opinion of this Department that in the absence of a statute giving the superintendent or other person connected with an eleemosynary institution direct, or implied, authority to act in behalf of a patient incarcerated in an eleemosynary institution, such superintendent shall not have authority to act in the capacity of agent or representative for any patient.

Respectfully submitted

B. RICHARDS CREECH  
Assistant Attorney General

APPROVED:

VANE C. THURLO  
(Acting) Attorney General

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