

CANCER HOSPITAL: Cancer Commission proper party to
execute contract of bailment with
Federal Government.

August 16, 1939

8-18



Miss Dorothy A. Hehmann
Executive Secretary
Missouri Cancer Commission
3713 Washington Blvd
St. Louis, Missouri

Dear Miss Hehmann:

We have your letter of the 11th in which you submit copy of a proposed contract to be entered into between the United States on the one part and some agency representing the Cancer Commission on the other, and in which you ask the opinion of this office as to who should sign the contract on behalf of the Commission.

The proposed contract obligates the bailee therein named, among other things, to be responsible for the safekeeping of radium and containers being loaned to the State of Missouri by the United States to be used in connection with the treatment of cancer, and to replace any radium or containers lost or damaged. Therefore, the contract should be signed by some person or agency which can carry out these provisions, including the provision for replacing radium or containers lost or damaged.

Section 2, page 496, Laws of Mo. 1937,
reads as follows:

"The Cancer Commission of the State of Missouri is hereby empowered and directed to establish a hospital to be known as the State Cancer Hospital."

Section 6, page 496, Laws of Mo. 1937,
reads as follows:

"The Cancer Commission of the State of Missouri shall make all necessary rules and regulations for the conduct and discipline of the State Cancer Hospital."

While Section 1 of the act creating the Cancer Commission (page 496, Laws of Mo. 1937), authorizes the Commission to appoint an Administrator to have charge of the operation and conduct of the Cancer Hospital, yet the primary duty of establishing the hospital and maintaining it and directing its policies rests with the Cancer Commission. In actual practice, the Administrator would be the one who would be responsible for the radium being loaned to the institution by the United States, but in case of loss or damage to the radium or containers, the Cancer Commission would be the agency which would have to make good such loss or damage.

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CONCLUSION

It is, therefore, the opinion of this office that the Cancer Commission is the proper party to execute the contract of bailment with the United States covering the loan and use of radium in the cancer hospital at Fulton. Such execution should be effected by the signature of such officers as the Cancer Commission may, by resolution, authorize to execute the same on its behalf. Normally the president and secretary of the Commission would be the logical parties to execute the contract.

Yours very truly

HARRY H. KAY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

HHK:RV