

Opinion Request No. 344  
Answered by Letter

September 19, 1963



Honorable Joseph T. Conlon, Jr.  
Prosecuting Attorney  
Lincoln County  
Troy, Missouri

Dear Mr. Conlon:

This is in response to your request for an opinion from this office as to whether you can authorize the destruction of photostatic reproductions of hospital records under the five year limitation contained in Section 109.150.

You indicate correctly that Section 109.140, et seq., states that photostatic copies of original documents may be kept in lieu of the originals and the originals may be destroyed.

Section 109.150 does authorize the destruction of certain specified records after a five-year period elapses. However, none of the records listed would appear to include hospital records such as those about which you inquire. We believe that it is a generally accepted principle of law that a public officer having charge of records which are required to be maintained has no implied authority to destroy such records and, in fact, the burden is on the public officer involved to point to some specific authorization in the statutes for such destruction. See 45 Am. Jur., Records, Section 12, page 425.

Therefore, it is our conclusion that there is no express or implied authority to destroy the photostatic copies of the records about which you inquire.

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

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