

NURSING HOMES:
NURSING HOME DISTRICTS:
COUNTY COURT:
INDIGENTS:

1. Nursing home districts have no authority to accept and admit indigent persons to nursing homes without payment of fees.
2. The nursing home tax under Section 198.250, RSMo Cum. Supp., 1965 may be used for any of the purposes authorized by the nursing home law, Sections 198.200 to 198.350, RSMo Cum. Supp., 1965.

March 28, 1966



OPINION NO. 123

Honorable Paul D. Hess, Jr.
Prosecuting Attorney
Macon County Courthouse
Macon, Missouri

Dear Mr. Hess:

You have requested an official opinion of this office on two questions relating to nursing home districts, as follows:

"1. Under Section 198.300, and any related section, do the directors of a nursing home district have any authority to accept and admit to the nursing home an indigent person without payment of fees?

"2. Under Section 198.250, may a nursing home district use the funds arising from the tax levied, not to exceed 15 cents on the one hundred dollar valuation, for purposes of purchasing nursing home district site, erecting nursing home and related facilities and furnishing the same, building additions to and repairing old buildings, and for the general operation, maintenance and improvement of the nursing home facilities? If such funds from said annual levy may not be used for all of the purposes mentioned, then for which purposes may such funds properly be used?"

In connection to question 1, we enclose a copy of the opinion of the Attorney General No. 243 addressed to Honorable Paul D. Hess, Jr. dated December 4, 1964. It holds that a nursing home district does not have any obligation to admit an indigent person without payment

of fees. As to whether such nursing home district has the authority to admit indigent persons without charge, the enclosed opinion expressly declines to advise, but states:

"We believe that the source of funds for the applicant's payment is immaterial so long as they meet the standard of being reasonable fees as prescribed by the nursing home district, and such fees could be paid by the county court where the indigent applicant resided. In this connection it should be noted that under Section 205.590, RSMo 1959, and other related statutory provisions, the county court has certain duties and obligations in connection with supporting or caring for the indigent residents of their county. Chapter 198, RSMo Cum. Supp. 1963, relating to the formation and operation of nursing home districts, does not create such an obligation on behalf of the nursing home district."

If nursing homes have authority to admit indigents without requiring payment for their care and treatment from any source whatever, such authority must be derived from Section 198.300 RSMo. Cum. Supp. 1965, which sets out the powers of nursing home districts. Such districts, like other public corporations, can exercise only powers granted them by statutes in express words, those necessarily or fairly implied in or incident to powers expressly granted, and those essential or indispensable to declared objects and purposes of public bodies. *Lancaster v. County of Atchison, Mo.*, 180 S.W.2d 706.

Statutory authority of nursing homes bearing on the matter of charges for services is found in Subsections (4) and (7) of said Section 198.300.

"A nursing home district shall have and exercise the following governmental powers, and all other powers incidental, necessary, convenient or desirable to carry out and effectuate the express powers:* * *

"(4) To fix, charge and collect reasonable fees and compensation for the use or occupancy of the nursing home or any part thereof, and for nursing care, medicine, attendance, or other services furnished by the nursing home, according to the rules and regulations prescribed by the board from time to time;* * *

"(7) To maintain the nursing home for the benefit of the inhabitants of the area comprising the district regardless of race, creed or color, and to adopt such reasonable rules and regulations as may

be necessary to render the use of the nursing home of the greatest benefit to the greatest number; to exclude from the use of the nursing home all persons who willfully disregard any of the rules and regulations so established; to extend the privileges and use of the nursing home to persons residing outside the area of the district upon such terms and conditions as the board of directors prescribes by its rules and regulations; * * *

The quoted provisions do not expressly state or fairly imply the authority to admit patients without charge. We conclude that nursing homes have no such authority.

We proceed to your second question, as to the allocation of funds derived from the nursing home tax. Section 198.250 RSMo. Cum. Supp. 1965 provides that a nursing home district shall have the power to levy a property tax not to exceed fifteen cents on the one hundred dollars valuation. Section 198.310, RSMo. Cum. Supp. 1965 provides for borrowing money and issuing bonds for the purpose of "purchasing nursing home district sites, erecting nursing homes and related facilities and furnishing the same, building additions to and repairing old buildings." Under Section 198.300 supra, nursing home districts are empowered to establish, construct, maintain, acquire, develop, expand, extend, improve, operate and manage nursing homes and to enter into contracts necessary to implement these powers and to borrow money and issue securities in order to accomplish its purposes.

No limitation or definition of purpose is set out with respect to the use of the proceeds of the tax mentioned in Section 198.250. The necessary inference is that such funds are to be used to carry out the purposes and powers set out in the nursing home law, Sections 198.200 to 198.350 RSMo Cum. Supp. 1965. Since the expenditure of such funds is not expressly or impliedly limited to any one or more such purposes to the exclusion of others, we think that they may be spent for any and all such purposes and that the mentioned statutory provisions for borrowing money are additional, alternative and cumulative methods of furnishing the financial wherewithal contemplated by the nursing home law.

CONCLUSION

It is the opinion of this office that nursing home districts have no authority to accept and admit indigent persons to nursing homes without payment of fees.

It is further the opinion of this office that the nursing home tax under Section 198.250, RSMo. Cum. Supp. may be used by a nursing

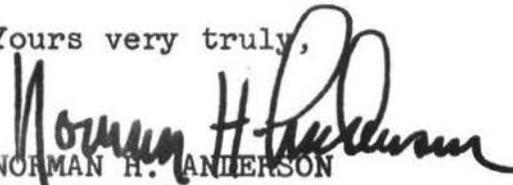
Honorable Paul D. Hess, Jr.

Page 4

home district for any of the purposes authorized by the nursing home law, Sections 198.200 to 198.350, RSMo. Cum. Supp. 1965.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donald L. Randolph.

Yours very truly,



NORMAN H. ANDERSON
Attorney General