

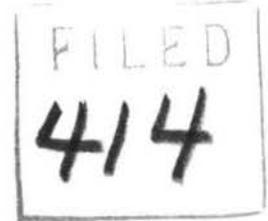
COUNTY HOSPITALS:
COUNTY NURSING HOMES:

An existing county hospital facility may be converted into a county nursing home under the provisions of Section 205.375, RSMo.,

1959 by the county court with the permission of the hospital Board of Trustees. Also the Hospital Board of Trustees have no statutory authority to continue to control and manage the facility after it has been converted into a nursing home and that the primary duty in regard to this rests in the county court under Section 205.375.

OPINION NO. 414

December 21, 1967



Honorable James Millan
Prosecuting Attorney
Pike County
Courthouse
Bowling Green, Missouri

Dear Mr. Millan:

This is in response to your request for an opinion which you made to this office in your letter of October 12, 1967. We will first outline the facts which give rise to your request.

Pike County presently has a county hospital operated by a Board of Trustees in accordance with Sections 205.160 to 205.340, RSMo., 1959. The Board of Trustees has decided to build a new building which will be situated so that it is connected to the old one. The Board and the county court want to convert the old facility into a convalescent care or nursing home and make the new facility into a hospital. At the same time, they would like to leave both under the jurisdiction and management of the hospital Board of Trustees.

The questions which you ask, then, may be posed in the following manner. May a building, which has been operated as a county hospital under Section 205.160, RSMo., 1959 and the sections there following, (1) be turned into a county nursing home under Section 205.375, RSMo., 1959, and, if so, (2) can it remain under the jurisdiction of the county hospital board of trustees?

The first question to be considered is whether or not the old hospital facility can be transformed into a nursing home. Section 49.270, RSMo., 1959 gives the county court the power to control and manage all property belonging to the county including the power to sell and convey real estate. While the county itself is the "owner" of county property, the effective exercise of that ownership is vested in the county court. Therefore, an existing county hospital, title to which is in the county, is property that is under the control and management of the county court by virtue of Section 49.270.

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The county court has power to set up county nursing homes under Section 205.375. In pursuance of this power, it may, among other things, acquire land, construct and equip the nursing home, issue bonds as authorized by law, and provide for the leasing and renting of the nursing home. We hold that this grant of power also enables the county court to take existing county property which it already controls and use it for the purpose of establishing a nursing home. This is a valid use of county property for a legitimate county purpose, and is in line with a previous holding of this office to the effect that a county court could sell county property and use the proceeds to set up a nursing home. Opinion Attorney General, No. 4, 8-8-57.

It should be noted that our decision presupposes that the hospital Board of Trustees approve the transformation of the building from a hospital to a nursing home. The complete care and custody of the county hospital is vested in the Board of Trustees by Section 205.190 (4) RSMo., 1959. A previous opinion of this office, Opinion Attorney General, No. 72, 7-11-57, held that the county court could not convey hospital real estate without the consent of the hospital Board of Trustees even though the title to the real estate was in the county alone. Using the same reasoning, we conclude that the county court cannot transform a hospital into a nursing home completely at will and must first obtain the consent of the hospital Board of Trustees.

The first question can be answered by saying that the old hospital may be transformed into a nursing home if the county court obtains the approval of the hospital Board of Trustees.

The second question is whether or not the county hospital Board of Trustees can continue to control and manage the old building after it has been turned into a nursing home. Section 205.375 says that the county court may rent or lease the nursing home to non-profit organizations who will run it according to the purposes provided for by that section. This raises the question whether the hospital board could become a lessee of the old building for the purpose of operating it in conjunction with the new hospital building. While the applicable statutes, Sections 205.160 to 205.340, do not answer this question directly, they do not give the hospital Board of Trustees any power to run nursing homes. All of their authority is directed toward the operation of county hospitals and county nursing homes cannot, by definition, be termed county hospitals. Opinion Attorney General, No. 196, 3-28-66.

Even though the county court has authority to lease a nursing home under Section 205.375, the hospital Board of Trustees has no authority under Sections 205.160 to 205.340 to accept the responsibility for controlling and managing a nursing home. Therefore, it is the opinion of this office that when a building is converted from a hospital to a nursing home with the consent of the hospital trustees, it is no longer under the jurisdiction of the hospital Board of Trustees and they cannot manage it as a nursing home.

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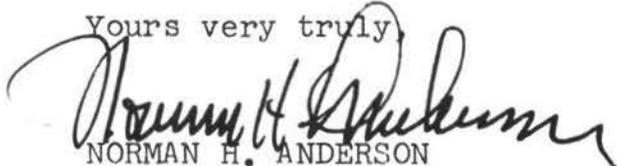
CONCLUSION

It is the opinion of this office that an existing county hospital facility may be converted into a county nursing home under the provisions of Section 205.375, RSMo., 1959 by the county court with the permission of the hospital Board of Trustees.

However, it is also the opinion of this office that the hospital Board of Trustees have no statutory authority to continue to control and manage the facility after it has been converted into a nursing home and that the primary duty in regard to this rests in the county court under Section 205.375.

The foregoing opinion which I hereby approve was prepared by my assistant, Gary G. Sprick.

Yours very truly,



NORMAN H. ANDERSON
Attorney General