

HOSPITALS:
BOARD OF HOSPITAL TRUSTEES:
HOSPITAL TAX:
LEASING HOSPITAL FROM
PRIVATE OWNERS:

A hospital board of trustees created by and acting pursuant to Sections 205.160 to 205.340, RSMo. 1959, as amended, RSMo. Cum. Supp. 1967, may lease existing hospital facilities

from a private organization until a permanent county hospital can be erected. Funds raised by the tax levy authorized by Section 205.200, RSMo. Cum. Supp. 1967, cannot be used to pay the rental on the leased facilities.

Opinion No. 356

October 1, 1968

Honorable Richard J. Blanck
Prosecuting Attorney
Cooper County
Boonville, Missouri



Dear Mr. Blanck:

This is in answer to your letter of July 25, 1968, requesting an opinion in regard to the operation of St. Joseph's Hospital in Cooper County.

You state that the Sisters of St. Benedict will cease operation of the hospital by July 1, 1969, and new arrangements must be made in order to furnish hospital facilities for Cooper County and the surrounding area. It has been suggested that a County Hospital managed by the Board of Hospital Trustees be established pursuant to Sections 205.160 to 205.340, RSMo. 1959, as amended, RSMo. Cum. Supp. 1967. However, a new facility could not be built by July 1, 1969, so temporary arrangements must be made for the interim period. In this regard, you ask the following questions:

"(1) Can Cooper County lease the present hospital facilities from the Sisters of St. Benedict to fill the hospital needs of the area during the interim period, until permanent hospital facilities can be constructed?

"(2) Can funds from the tax levy authorized by Section 205.200, Laws of 1965, be used to pay the rental on said leased facilities?"

In a subsequent telephone conversation you clarified your first question by stating that the existing hospital facilities would be leased by the duly selected Hospital Board of Trustees and not by the County Court.

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Section 205.160, RSMo. 1959, reads as follows:

"Establishment and maintenance of hospitals-- bonds.--The county courts of the several counties of this state are hereby authorized, as provided in sections 205.160 to 205.340, to establish, construct, equip, improve, extend, repair and maintain public hospitals, and may issue bonds therefor as authorized by the general law governing the incurring of indebtedness by counties."

A hospital board of trustees is created by Section 205.170, RSMo. 1959, and provision for the election of trustees is made by Section 205.180, RSMo. Cum. Supp. 1967. The duties and powers of the board of trustees are set forth in Section 205.190, RSMo. Cum. Supp. 1967. Among other things, the powers of the board include:

". . .the exclusive control of the expenditures of all moneys collected to the credit of the hospital fund, and of the purchase of site or sites, the purchase or construction of any hospital buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose. . ."
(emphasis added)

It can be seen from the foregoing that the board of trustees have the power to lease both buildings and land for hospital purposes. Therefore, it is the opinion of this office that your first question be answered in the affirmative. A hospital board of trustees duly selected may lease existing hospital facilities from the Sisters of St. Benedict until permanent facilities can be constructed.

The second question involves Section 205.200, RSMo. Cum. Supp. 1967, which authorizes the County Court to levy a hospital tax in order ". . .to defray the amount required for the maintenance and improvement of such public hospital and for constructing and furnishing necessary additions thereto. . ." It is this tax along with the revenue from hospital operations which is expected to furnish the money for the maintenance of the hospital. It is the opinion of this office that the proceeds of the tax cannot be used to pay the rental on the leased facilities. The rental cost cannot be construed to be a part of the "maintenance and improvement" expense which can be paid from proceeds collected by the hospital tax. Section 205.200 states that "The funds arising from the tax levied for such purpose shall be used for the purpose for which the tax was levied and none other". In view of this provision, we do not feel that the tax can be used to pay the rental cost involved in acquiring the use of a private hospital.

Honorable Richard J. Blanck -

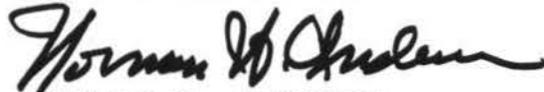
CONCLUSION

It is the opinion of this office that a hospital board of trustees created by and acting pursuant to Sections 205.160 to 205.340, RSMo. 1959, as amended, RSMo. Cum. Supp. 1967, may lease existing hospital facilities from a private organization until a permanent county hospital can be erected.

It is the further opinion of this office that funds raised by the tax levy authorized by Section 205.200, RSMo. Cum. Supp. 1967, cannot be used to pay the rental on the leased facilities.

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

Very truly yours,



NORMAN H. ANDERSON
Attorney General