

ELEEMOSYNARY INSTITUTIONS: Board may grant permission to an individual to copy data on insane patients.

7/24
February 20, 1939



Mr. W. Ed Jameson, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your letter of February 17, 1939, in which you request an official opinion as follows:

"I enclose you herewith letter from Miss Elizabeth McQueen, representing a sociology class of the University of Kansas City, asking for permission to make certain examination of the records of Jackson County patients at our State mental hospitals. I am also attaching a copy of resolution passed by our Board instructing me to obtain opinion from your office before granting this privilege."

Section 8565, R.S. Missouri, 1929, reads as follows:

"The board of each institution shall have authority to make all necessary rules, regulations and bylaws for the government, discipline and management of such institution not inconsistent with the laws of this state, and such rules, regulations and bylaws, when so made and adopted

by the board, shall be binding upon all officers and employes of the institution, and shall remain in force and effect until changed or annulled by the board by an order entered upon the records of such institution."

It will be noticed under this section that the Board of each institution shall have authority to make all necessary rules and regulations in regard to their separate institutions. This section is under Article 1, general provisions, regarding state eleemosynary institutions, which governs State Hospital No. 1 at Fulton, State Hospital No. 2 at St. Joseph, State Hospital No. 3 at Nevada, State Hospital No. 4 at Farmington, the Missouri State Sanatorium at Mt. Vernon and the Missouri State School at Marshall. It will also be noticed under Section 8565 that the rules and regulations made by the Board of each institution shall not be inconsistent with the laws of this state.

After a research of all the laws in regard to state eleemosynary institutions, I find no law which would prevent a private individual from copying any record such as prohibitions set out in the sales tax law of the Laws of Missouri, 1935, Section 34, which prohibited the State Auditor or any person to divulge or give out any information relative to the contents of any return filed under the act. If the State Auditor had been granted the power to make rules and regulations as set out in the powers granted the State Eleemosynary Board, the separate law concerning returns would be a prohibition against giving out the information. Under Section 8565, the Board of each institution may grant the privilege of a private individual to inspect and copy the records of an insane inmate or it may refuse to allow a private individual to inspect the record of an insane inmate.

Section 8580, R.S. Missouri, 1929, provides: "The person appointed as superintendent of each of the several eleemosynary institutions herein named shall have complete charge, control and management of the entire institution * * *". Under this section, the superintendent may refuse to allow an individual to inspect the records of an insane inmate.

Mr. W. Ed Jameson

- 3 -

February 20, 1939

CONCLUSION.

In view of the above authorities, it is the opinion of this department that the superintendent of State Hospital No. 1 at Fulton, the superintendent of State Hospital No. 2 at St. Joseph and the superintendent of State Hospital No. 3 at Nevada may grant Elizabeth McQueen, a sociology student at the University of Kansas City, permission to examine and copy the records of the Kansas City patients.

It is also the opinion of this department that the respective superintendents, under the rules and regulations enacted by the Board of each institution, may refuse to grant that privilege or permission.

Respectfully submitted,

W.J. BURKE
Assistant Attorney General

APPROVED By;

HARRY H. KAY
(Acting) Attorney General

WJB:VAC