



STATE OF KANSAS

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February 17, 1975

Opinion No. 75- 70

The Honorable Elwill M. Shanahan  
Secretary of State  
2nd Floor - State Capitol Building  
Topeka, Kansas 66612

Attn: Mr. Sherman Parks

Dear Secretary Shanahan:

K.S.A. 17-1739 et seq. is a regulatory act concerning the solicitation and collection of funds for charitable purposes. K.S.A. 17-1741(10) exempts from that act the following:

"Any corporation sole or other religious corporation, trust or organization incorporated or established for religious purposes, or established for charitable, hospital or educational purposes and engaged in effectuating one (1) or more of such purposes, that is affiliated with, operated by or supervised or controlled by corporation sole or other religious corporation, trust or organization incorporated or established for religious purposes, or to any other religious agency or organization which serves religion by the preservation of religious rights and freedom from preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith."

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The question is raised whether this exemption applies to all nonprofit, nonproprietary Kansas hospitals, including those listed below:

- "1. 25 County hospitals operated by a Board of Trustees appointed by the County Commissioners.
2. 19 District hospitals operated by a Board of Trustees.
3. 1 County and District hospital which has been leased to nonprofit, non-religious corporation.
4. 29 County and District hospitals which have been leased to a religious corporation.
5. 16 hospitals operated by nonprofit charitable corporations not clearly identified with a religious body.
6. 32 hospitals operated by a religious body.
7. 14 City hospitals.
8. 2 City hospitals leased to nonprofit corporations.
9. 4 City hospitals leased to religious corporations."

In order to be exempt under this provision from the registration and other requirements concerning charitable solicitation, it is necessary, first, that the organization be a religious corporation, trust or organization, secondly, that it be organized for a religious, charitable, hospital, or educational purpose, third, that it be engaged in one or more of such purposes, and fourth, that it be affiliated with, operated by or supervised or controlled by a religious corporation, trust or organization organized for religious purposes.

This exemption makes clear that the organization claiming the exemption must, in addition to having as one of its purposes the operation of a hospital, be a religious organization. Thus, county hospitals operated by a board of trustees appointed by the county

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commissioners, district hospitals operated by a board of trustees, a county and district hospital leased to a nonprofit, nonreligious corporation, hospitals operated by nonprofit charitable corporations not clearly identified with a religious body, city hospitals, and city hospitals leased to nonprofit corporations cannot, in our view, qualify for the exemption under this provision.

Construed more technically, it may be argued that a municipal hospital is not itself a religious corporation or organization and is thus not entitled to an exemption hereunder, notwithstanding it is leased to a religious corporation or other religious organization, and although the latter religious corporation or organization is itself entitled to the exemption. Similarly, county and district hospitals are not themselves religious corporations, although a lessee religious corporation may qualify for the exemption.

I hope that the foregoing clarifies our view of the scope to be afforded this exemption.

Yours very truly,

  
CURT T. SCHNEIDER  
Attorney General

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