



STATE OF KANSAS

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CURT T. SCHNEIDER
Attorney General

April 22, 1975

Opinion No. 75-170

Mr. James W. Bibb
Director of the Budget
Department of Administration
1st Floor - State Capitol Building
Topeka, Kansas 66612

Dear Mr. Bibb:

You inquire whether the proposed bill attached to your letter, numbered 5 RS 1412, is necessary to provide statutory authorization for programs of the University of Kansas School of Medicine at Wichita. The question is raised, apparently, in light of Opinion nos. 74-11 and 74-48. Those opinions deal generally with reliance upon appropriation measures, and particularly line item appropriations, as substantive authority for particular programs and purchases.

There is apparently a concern in some quarters that the sole authority which may exist for programs of the University of Kansas Medical School at Wichita may rest only in appropriation acts, and that in light of these opinions, that authority is insufficient. It is suggested that the cited opinions hold, generally, "that a new program cannot be commenced for any institution or state agency, that is outside of its statutory role as specified by general law." This is, obviously, an overbroad and very general summary of the conclusions of those opinions, too general to be helpful in any specific application. Needless to say, those opinions represent, in my judgment, a correct statement of the law. It is further my view that concern based on application of those opinions to programs of the University of Kansas Medical School at Wichita is entirely misplaced. While there are a number of statutory references to the Medical School and the Medical Center, we find no statute expressly creating, establishing and constituting the University of Kansas Medical School. There are, similarly, no express statutes creating other schools of the University, such as the Law School,

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the William Allen White School of Journalism, and other such schools and departments. The Medical School is not, in legal contemplation, a physical plant, having a fixed situs, but an institution established for the conduct of particular educational programs of the Board of Regents.

In the 1970 revision of certain statutes relating to the State Board of Regents, see K.S.A. 1974 Supp. 76-711 et seq., a particular effort was made by the legislature to describe the authority of the Board in the broadest of terms, to forestall trifling and picayune objections to particular undertakings based on an asserted lack of statutory authority. Thus, K.S.A. 76-712 provides thus:

"The universities and colleges of this state are state agencies and state institutions and shall be controlled by, and operated and managed under the supervision of the board of regents. For such control, operation, management or supervision, the board of regents may make contracts and adopt orders, policies or rules and regulations and do or perform such other acts as are authorized by law or are appropriate for such purposes."

Moreover, under K.S.A. 76-716,

"The state board of regents shall determine the programs which shall be offered and the degree which may be granted by each university and college."

The term "university" is defined by K.S.A. 76-711(a) thus:

"'University' means the university of Kansas, Kansas state university of agriculture and applied science and Wichita State University."

At the time of this enactment, K.S.A. 76-301 was repealed, which formerly provided thus:

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"The name, 'the university of Kansas,'
and its location at Lawrence, in Douglas
County, are continued under this act."

Former K.S.A. 76-303 formerly stated thus:

"The university shall consist of three
departments: I, a department of the literatures;
II, a department of the sciences, III, a depart-
ment of the arts. Within these three departments
there shall be established such schools as the
board of regents in connection with the faculty."

This statute originated in 1864, and in apparently this form, was enacted in 1889, lasting until the 1970 revision. Limitations of time forbid an historical study of the origin of the School of Medicine,. For the purposes of this opinion, it is sufficient to assume that it was created by the Board of Regents under the authority of this enactment of the last century. As stated earlier, the school is not, in legal contemplation, a fixed acreage and physical plant located in Kansas City, Kansas, but an organized body of faculty and students organized for the teaching and learning of a given educational mission. It is within the broad and general authority of the State Board of Regents to authorize instruction to be given by and in behalf of the School of Medicine under its jurisdiction at places other than a fixed acreage and physical plant in Kansas City, Kansas, and it is accordingly within its authority to authorize programs under the auspices of the School of Medicine at cities in the state other than Kansas City, Kansas. Obviously, the exercise of this authority is subject to the willingness of the Legislature to provide funds for its programs. Certainly, however, no further substantive statutory authority is necessary to empower the Board to authorize programs of the School of Medicine to be conducted elsewhere in the state than Kansas City, Kansas.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

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