



STATE OF KANSAS

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May 23, 1979

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ATTORNEY GENERAL OPINION NO. 79- 90

Mr. James J. Smith
Attorney at Law
610 Bridge
Humboldt, Kansas 66748

Re: Counties and County Officers--Community Mental
Health Centers--Purchase or Construction of
Building

Synopsis: The governing board of a community mental health
center has no authority to borrow money from a
financial institution to purchase or construct
a building.

* * *

Dear Mr. Smith:

As attorney for the Southeast Kansas Mental Health Center
at Humboldt, Kansas, you request our opinion as to whether
the governing board of the center may borrow money from a
local bank to assist in financing the construction of a
new building to be used by the center.

Your inquiry arises from the fact that said Board has requested
the U. S. Internal Revenue Service to issue a ruling stating
that the interest paid on such a loan would be exempt from
Federal Income Tax. The Internal Revenue Service has request-
ed the Board to disclose the legal authority pursuant to
which it asserts it can incur indebtedness of this nature.

You indicate that the Southeast Kansas Mental Health Center
was established by the joint action of several boards of
county commissioners solely as a community mental health cen-
ter, pursuant to the authority granted by K.S.A. 19-4001 et seq.

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K.S.A. 1978 Supp. 19-4001, in relevant part, provides:

"The board of county commissioners of any county or the boards of county commissioners of two (2) or more counties jointly may establish a community mental health center and/or community facility for the mentally retarded, which shall be organized, operated, and financed according to the provisions of this act."
(Emphasis added.)

In our opinion, this statute makes it clear that a community mental health center is to be financed only in accordance with the provisions of K.S.A. 19-4001 et seq. In the succeeding statutes, the Legislature has authorized five (5) specific sources of revenue to finance such centers, to wit:

(1) By the levying of a tax by the board or boards of county commissioners who establish the center. K.S.A. 1978 Supp. 19-4004.

(2) By said board or boards of county commissioners issuing general obligation bonds, with a tax levy specifically authorized for the retirement thereof. K.S.A. 1978 Supp. 19-4004.

(3) By authorizing the governing board of the center to solicit, accept and expend gifts and grants from private, county, state or federal sources. K.S.A. 1978 Supp. 19-4004 and 19-4009.

(4) By providing that, in those instances where, pursuant to K.S.A. 1978 Supp. 19-4004, title to any building or building and site vests in the governing board of the center, said board may sell any such building or building and site vests in the governing board of the center, said board may sell any such building or building and site and use the moneys received from such sale to acquire, furnish or equip a building for the use of such community mental health center. K.S.A. 19-4013.

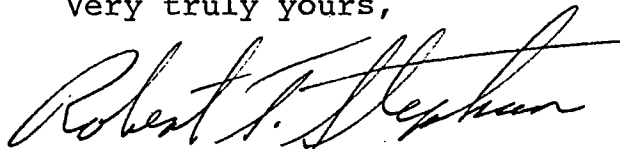
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(5) By specifically authorizing the board of such center to contract with the board of county commissioners of any county which is not a part of the community mental health center (K.S.A. 19-4010) and authorizing said mental health center board to receive and expend any and all moneys received pursuant to such contract to provide community mental health services. K.S.A. 1978 Supp. 19-4011.

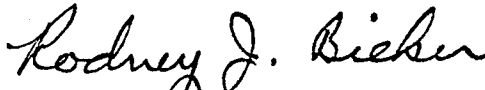
It is readily apparent from the foregoing that the Legislature went to great lengths to provide numerous alternative sources of funding with which a mental health center board could acquire, operate and maintain the community mental health center. As we read the pertinent statutes, these are the only sources provided in K.S.A. 19-4001 et seq. by which centers established pursuant to said act may be financed.

Therefore, it is our judgment that the governing board of a community mental health center established pursuant to K.S.A. 19-4001 et seq. lacks the authority to borrow money from a financial institution. Moneys needed by any such center must be derived from one or more of the sources specifically provided in K.S.A. 19-4001 et seq.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:gk