



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

May 31, 1979

ATTORNEY GENERAL OPINION NO. 79- 101

Mr. Kenneth P. Stewart  
Attorney at Law  
1030 First National Bank Building  
Wichita, Kansas 67202

Re: Counties and County Officers--Hospitals--Abolition  
of Board of Trustees Upon Hospital's Sale or Lease

Synopsis: The effective date of 1979 House Bill No. 2679,  
authorizing the sale or lease of a hospital organized  
and operated pursuant to K.S.A. 19-1860 et seq., is  
July 1, 1979, but the date upon which such hospital's  
board of trustees is abolished will be coincident  
with the date the hospital is either sold or leased.

\* \* \*

Dear Mr. Stewart:

On behalf of E.B. Allen Memorial Hospital, a hospital owned  
and operated by Sedgwick County under authority of K.S.A. 19-1860  
et seq., you have solicited our interpretation of certain pro-  
visions of 1979 House Bill No. 2679. Specifically, you have  
submitted the following question:

"What is the effective date of the abolition  
of the Board of Trustees of E.B. Allen  
Memorial Hospital pursuant to Section 2  
of said Bill?"

Mr. Kenneth P. Stewart  
Page Two  
May 31, 1979

Initially, we want to confirm your understanding that H.B. 2679 takes effect on July 1, 1979. Section 4 of the bill provides that it will "take effect and be in force from and after its publication in the statute book." The meaning of such statement is explained by K.S.A. 1978 Supp. 45-310(a), as follows:

"Whenever any bill or act of the legislature shall provide that the same shall be effective from and after its publication in the statute book, the words 'publication in the statute book' mean the date of publication of the session laws of Kansas specified in the certificate provided for by K.S.A. 45-311."

K.S.A. 45-311 states:

"The secretary of state shall prefix to each printed volume of the laws his certificate . . . specifying the date of the publication of such volume. The date of the publication so specified shall not be sooner than the date that at least a limited number of the volume are in the office of the secretary of state and shall be July 1 if a limited number of the volume are in the office of the secretary of state on or before July 1, unless an earlier date for any volume is directed by concurrent resolution of the legislature."

Although the Secretary of State has not published the 1979 Session Laws of Kansas, we are assuming that its date of publication will be July 1, 1979. We are unaware of any concurrent resolution specifying a different effective date, and we have no reason to believe that at least a limited number of the new volume will not be available on that date.

Based on this assumption, however, the question still remains whether the effective date of the act coincides with the date upon which the hospital's board of trustees is abolished by section 2 of the bill. We do not believe these dates necessarily must be identical, which conclusion is prompted by the provisions of section 2, which read as follows:

Mr. Kenneth P. Stewart  
Page Three  
May 31, 1979

"Sec. 2. The board of trustees of any hospital sold and conveyed pursuant to section 1 or leased pursuant to section 3 is hereby abolished. Any moneys remaining in any fund of said hospital after its sale or lease shall, after payment of any obligation thereof, be transferred to the county general fund. All records and property of said hospital remaining after the sale or lease thereof shall be transferred to the custody of the county clerk."

It is apparent from the foregoing that the hospital board of trustees being abolished by this section is the board of trustees "of any hospital sold and conveyed pursuant to section 1 or leased pursuant to section 3." By this language the legislature has described the board in terms of two alternative acts, one of which must be accomplished with respect to the hospital under its control, which in either event is a hospital organized and operated pursuant to K.S.A. 19-1860 et seq. Without one of these two events taking place, i.e., the sale or lease of the hospital, the board of trustees of such hospital has not been defined or identified within the meaning of this section.

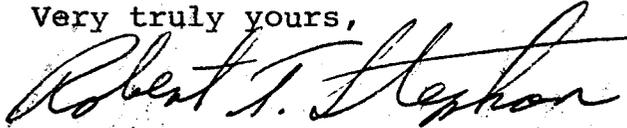
Thus, in our judgment, either the sale or lease of such hospital must be accomplished as a condition precedent to abolition of the hospital's board of trustees and the date thereof will be the date when either of these two mutually exclusive conditions is satisfied. While it is conceivable that this date will coincide with the effective date of the bill, such coincidence is not required. In fact, we would not expect this to occur, due to the time required to complete either of the two authorized transactions regarding disposition of the hospital property, neither of which can occur until after the bill takes effect.

We also note that our conclusion regarding the date upon which the hospital board of trustees is abolished is consistent with the implicit necessity of "winding up" the board's affairs. Certain transitional acts are required by section 2 to occur after the hospital's sale or lease, but we are confident that the continued existence of the board until that time will facilitate an orderly disposition of the hospital and its property including, if necessary, the transfer of patients, relocation of employees and other similar acts in anticipation

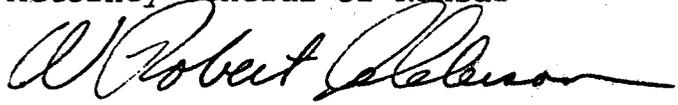
Mr. Kenneth P. Stewart  
Page Four  
May 31, 1979

of the ultimate completion of the hospital's transfer to the  
jurisdiction and control of the State Board of Regents.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



W. Robert Alderson  
First Deputy Attorney General

RTS:WRA:jm