



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

February 24, 1978

ATTORNEY GENERAL OPINION NO. 78-90

Mr. Charles F. Bennett
222 East Main
Post Office Box 966
Chanute, Kansas 66720

Re: Counties and County Officers--Hospitals--Powers of Board of Trustees

Synopsis: (1) Donations to county hospitals become property of the county subject to control of the board of trustees of such hospital;
(2) Boards of trustees have duty and authority to care for county property under its control in businesslike manner;
(3) Lawfully available funds of hospital may be expended for care of county property under hospital board's control under certain conditions;
(4) Board of trustees may co-sign promissory notes to secure funds to care for county property under its control; and,
(5) Board of trustees may appoint directors to corporation (county property) where such is in furtherance of board's duty to care for same.

* * *

Dear Mr. Bennett:

Your recent letter requests my opinion on several questions concerning the authority of a board of trustees for a county hospital organized and operating pursuant to K.S.A. 19-1801 et seq., which categorically entails the management and disposal of donations made to such hospital.

I direct your attention to the provisions of K.S.A. 19-1812 which state in part:

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"Any person or persons, firm, organization, corporation or society desiring to make donation of money, personal property or real estate for the benefit of such hospital, shall have the right to vest title of the money or real estate so donated in said county to be controlled, when accepted, by the board of hospital trustees according to the terms of the deed, gift, devise or bequest of such property:"

It appears from the facts disclosed in your letter that the hospital has received the donation of a certain interest in an "Agreement for Sale and Purchase of Corporate Stock" which apparently places the hospital in a position of controlling the entire corporation. Acceptance of such a gift is well within the authority granted under K.S.A. 19-1812, *supra*, provided title to the same is vested in and accepted by the county.

Thus, the corporation stands to become the property of the county. K.S.A. 19-1804 (f) provides in pertinent part thus:

". . . The board [of trustees] shall be charged with the businesslike supervision, care and custody of *all* hospital property"
[Emphasis added.]

To the extent the donated corporation becomes county property under the control of the board of trustees, the board is then not only authorized to care for the property in a businesslike manner, but it has a duty to do so.

First, you specifically ask whether the board may use hospital funds for payment of the corporation's debt. If paying the corporate debt will care for the hospital's property in a businesslike manner, and if the hospital has available funds that may properly be expended for the care of such property, then the board may exercise the discretion and control it possesses under K.S.A. 1977 Supp. 19-1804(f) to so expend such funds.

Second, you inquire whether the board of trustees has the authority to co-sign a promissory or installment note to pay the corporate debt. While the county hospital is in fact a constituted element of county government, neither it nor the board of trustees fall within the definitions of "municipality" or "governing body"

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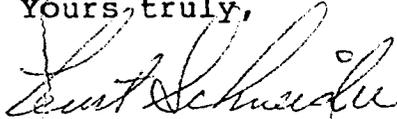
as those terms are defined at K.S.A. 10-1101 (a) and (b).¹ Thus a county hospital board of trustees does not fall within the purview of the Kansas Cash Basis Law and may accordingly execute such notes in such manner as may be necessary to adequately care for the property under its control in a businesslike manner.

Third, you ask whether the board of trustees is authorized to appoint directors of the corporation. Assuming the corporate structure permits such appointments, then I find no limitation which would prevent such action save the requirement that such appointments be to supervise or care for the county property in a businesslike manner.

It would appear at this point from the foregoing answers to your first three questions that an answer to your last question is obviated.

I trust this will answer your specific inquiries and if we may be of further assistance, please advise.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj

1. See, Ks. Atty. Gen. Op. No. 77-352 dated October 26, 1977, and attached hereto for your convenience.