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March 25, 1980

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ATTORNEY GENERAL OPINION NO. 80-78

Charles F. Bennett
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P. O. Box 852
Chanute, Kansas 66720

Re: Counties and County Officers--Hospitals--Medical Clinics

Synopsis: The Board of Trustees of the Neosho Memorial Hospital possesses the authority to remodel an existing structure owned by it for the purpose of converting the same into a medical clinic, and, thereafter, lease the clinic to a doctor or doctors. The board, however, may not finance the project using funds derived from a bond issue for some other purpose, or a tax levy imposition. However, funds derived from hospital business receipts, grants and unrestricted donations may be used to finance the project. Cited herein: K.S.A. 19-18,117.

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Dear Mr. Bennett:

As attorney for the Neosho Memorial Hospital, a county hospital, you request our opinion concerning the following inquires:

1. Does a Board of Trustees of a county hospital possess the authority to convert a former residence owned by it into a medical clinic and, thereafter, lease the clinic to a person or persons engaged in medical practice?
2. If question number one is answered in the affirmative, what source or sources of revenue, if any, are available to pay for the project?

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The initial question is whether the board of trustees possesses the authority to undertake a remodeling project such as you describe, regardless of the source of funds contemplated to be used to pay for the remodeling project. It is only if the board possesses such authority that the question of financing the project arises. Therefore, we begin our analysis by reviewing the authority possessed by a county hospital board of trustees in regard to acquisition, construction or reconstruction of a medical clinic.

K.S.A. 19-18,117 provides:

"The governing board of a hospital created or operated under the provisions of article 18 of chapter 19 of the Kansas Statutes Annotated, or acts amendatory thereof or supplemental thereto, is authorized to construct or reconstruct, maintain, operate, improve, equip, lease, rent or enlarge medical, dental and optometric clinics for use in connection with the hospital under such terms and conditions as shall be approved by such governing board." (Emphasis added.)

Given the broad grant of authority bestowed upon board of trustees, particularly the authority to "construct" "reconstruct," "improve," "equip" or "enlarge" medical clinics, we believe the Board of Trustees of a county hospital has the authority to remodel an existing structure owned by it for the purpose of converting that structure into a medical clinic. However, the fact the Board of Trustees in this case intends merely to lease the clinic to one or more individuals in private medical practice causes us to pause and ask whether that purpose is within the language of K.S.A. 19-18,117 which provides that such clinics may be constructed, reconstructed, improved, etc., "for use in connection with the hospital." We believe this language mandates there be some nexus between the hospital and the use of the clinic.

In this case, we believe a sufficient nexus would exist. By definition, a "clinic" is "an institution connected with a hospital or medical school where diagnosis and treatment are made available to outpatients." Webster's Third New International Dictionary 423 (1966). Such is, we believe, the commonly understood definition of a "medical clinic." In regard to the clinic contemplated by the Board of Trustees of Neosho Memorial Hospital, we assume the intent is that the clinic will be a place where diagnosis and treatment are made available to outpatients of said hospital. Such is, in our

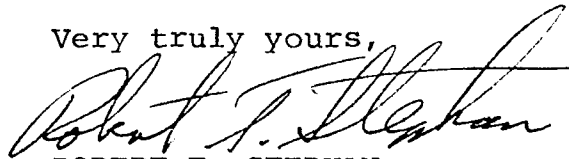
judgment, the "use" contemplated by the legislature's prescription that said medical clinics be used in connection with county hospitals.

Therefore, we are of the opinion that a board of trustees of a county hospital possesses the authority, under the provisions of K.S.A. 19-18,117, to convert a structure already owned by the hospital into a medical clinic and, thereafter, lease the same to a doctor or doctors, provided said clinic is used to diagnosis and treat medical problems of outpatients of the hospital.

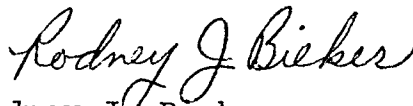
With respect to financing this project, in Attorney General Opinion No. 79-47, dated April 5, 1979, we had occasion to discuss, in detail, the various sources of revenue for county hospitals and the funds that are available to boards of trustees of such hospitals to construct, reconstruct, equip, etc., medical clinics. Due to the extensive discussion contained therein, particularly at pages five through nine of the opinion, we see no need to repeat that discussion. Instead, we incorporate that discussion herein, by reference, as though fully set forth, and attach hereto a copy of our prior opinion. However, we reiterate and confirm our prior conclusion that a hospital board may not construct, reconstruct, equip, etc., a medical clinic using funds derived from a bond issue authorized for some other purpose, or a tax levy imposition, but funds derived from hospital business receipts, grants and unrestricted donations may be used to finance such a project.

Thus, in review, it is our opinion that the Board of Trustees of the Neosho Memorial Hospital possesses the authority to remodel an existing structure owned by it for the purpose of converting the same into a medical clinic, and, thereafter, lease the clinic to a doctor or doctors. The board, however, may not finance such a project using funds derived from a bond issue authorized for some other purpose, or a tax levy imposition, but funds derived from hospital business receipts, grants and unrestricted donations may be used to finance the project.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bleker
Assistant Attorney General

RTS:BJS:RJB:jm
Attachment