



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

February 8, 1982

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ATTORNEY GENERAL OPINION NO. 82- 31

Mr. Wayne M. Stallard  
Attorney at Law  
307 Leonard Street  
Onaga, Kansas 66521

Re: Townships and Township Officers -- Hospitals --  
Expenditure of Hospital District Funds for Recruit-  
ment by Paying for Medical Education

Synopsis: A hospital Board of Directors acting pursuant to  
K.S.A. 80-21,101 et seq. is without authority to  
expend hospital district funds to provide for a  
medical education in return for a promise to prac-  
tice medicine in a certain area. Cited herein:  
K.S.A. 1981 Supp. 80-21,101, 80-21,111.

\* \* \*

Dear Mr. Stallard:

As legal counsel for Community Hospital District No. 1 of Pottawatomie and Jackson counties, you request an opinion of this office regarding the authority of the Hospital District Board of Directors to enter into an agreement with a prospective local medical student, to the effect that the hospital district will provide funds for the medical education of the student in return for a promise to practice in your district upon obtaining a license to practice. You state that your hospital district is organized pursuant to K.S.A. 1981 Supp. 80-21,101 et seq., and that it is in dire need of at least one more doctor. Specifically, you inquire whether authority for such action may be found pursuant to K.S.A. 1981 Supp. 80-21,111 (e), which grants the board of directors power to "expend funds of the district for recruitment of professional staff."

It is well established in Kansas "that subdivisions of the state, being creatures of the state, have only such powers as are conferred upon them by statute." Township Board of Ash Creek v. Robb, 166 Kan. 138, 139, (1948). Thus, the board

of directors does not have the power to enter into the contemplated agreement unless such power has been conferred or is necessarily implied. It is our opinion that the enabling statutes of the hospital district, specifically the authorization to expend funds for recruitment of professional staff, do not confer the power required to take the contemplated action.

The language conferring the power to expend funds to recruit professional staff was added to K.S.A. 1981 Supp. 80-21,111 by L. 1972, ch. 44, §18. An examination of the legislative history of this enactment shows no intent to allow hospital boards to finance the education of medical students in return for a promise to practice in a certain geographical area. The minutes of the Senate Public Health and Welfare Committee on February 2, 1972 show the following:

"Chairman Thomas advised that the committee would break from the hearings on Substitute for Senate Bill No. 291 to hear from Senator Smith on S.B. 584 - AN ACT CONCERNING CITY, TOWNSHIP, COUNTY AND DISTRICT HOSPITALS. Senator Smith advised that even though this bill is lengthy, it basically only makes one change in the law and that is to allow hospitals to spend funds for recruitment of hospital personnel. Senator Janssen asked if this could open the way for hospitals to pay a portion or all of a student's expenses during medical school as an enticement to come back to the hospital. Senator Smith does not envision [sic] this."

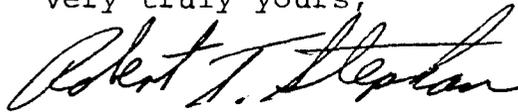
The above is an indication that the legislature did not intend to confer the power to pay for a medical student's education in return for a promise to practice medicine in your area. The primary rule of statutory construction in Kansas is that the intent of the legislature controls. See Jolly v. Kansas Public Emp. Retirement System, 214 Kan. 200, (1974). Because nothing in the statute or its legislative history indicates the intent to include the contemplated action within the authority conferred in K.S.A. 1981 Supp. 80-21,111, we cannot say as a matter of law that said action is authorized. We reached a similar conclusion regarding the authority of a county hospital's board of trustees in Attorney General Opinion No. 82-32, and we are enclosing a copy of that opinion for your consideration.

To summarize, it is our opinion that a Hospital Board of Directors acting pursuant to K.S.A. 80-21,101 et seq. is

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without authority to expend hospital district funds to provide for a medical education in return for a promise to practice medicine in a certain area.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Bradley J. Smoot  
Deputy Attorney General

RTS:BJS:hle

Enclosure: Att'y Gen. Op. No. 82-32