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February 23, 2026

ATTORNEY GENERAL OPINION NO. 2026-6

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Re: Counties and County Officers—Hospitals and Related Facilities—
Organization of Board; Budget Preparation and Approval

Counties and County Officers—Hospitals and Related Facilities—
Powers and Duties of Board; Expenditures and Investments

Synopsis: The Seward County Board of County Commissioners appoints Southwest Medical Center's hospital board. K.S.A. 19-4607(c) requires non-elected hospital boards to submit a proposed budget and the portion of the budget requested to be funded by a tax under K.S.A. 19-4606 to the county commissioners. K.S.A. 19-4610(a) directs that a hospital board shall have control over all expenditures, except those raised by revenue bonds. These statutes do not conflict, as they apply to two different subjects. K.S.A. 19-4607(c) directs a non-elected hospital board to submit a proposed budget to the county

commissioners regardless of whether the hospital board is requesting any portion be funded by a tax under K.S.A. 19-4606. Thus, K.S.A. 19-4607(c) requires SWMC to submit its proposed budget to the Seward County Board of County Commissioners each year for approval. Cited herein: K.S.A. 19-4601; K.S.A. 19-4606; K.S.A. 19-4607; K.S.A. 19-4610; K.S.A. 19-4616.

* * *

Dear Ms. McQueen and Mr. Foreman:

As chief legal counsel for Southwest Medical Center (SWMC) and County Counselor for Seward County, you jointly ask whether a county hospital is always required to submit its budget for approval to the county commission or whether it is required to do so only when raising a tax under K.S.A. 19-4606. SWMC is an acute-care hospital facility owned by Seward County. It is governed by a seven-member Board of Trustees appointed by the Seward County Board of County Commissioners.

K.S.A. 19-4601, *et seq.* provides statutory requirements for the operation of county-owned hospitals. Hospital boards can either be appointed by county commissioners or elected. Parts of the act apply differently or provide different authority to the hospital board based on whether the board is elected or appointed. Because the Seward County Board of Commissioners appoints SWMC's board, the provisions applicable to elected boards do not apply here. Two statutory provisions affect your question. The first is K.S.A. 19-4607(c), which, in relevant part, states:

Prior to June 1 of each year, the board^[1] shall prepare a budget showing the amount it deems necessary to operate, equip, maintain and improve the hospital for the ensuing fiscal year *and* the amount of that portion thereof that it deems necessary to be raised by the tax authorized under K.S.A. 19-4606, and shall submit its proposed budget to the commission^[2] or, in case of an elected board, to the county clerk. If the commission does not approve the proposed budget within 10 days after receipt thereof, it shall return the budget to the board. Upon receipt of the returned budget, the board shall consider amendments or modification and may consult with the commission concerning the budget. Within 10 days after receipt of the returned budget, the board shall resubmit its proposed budget, with or without amendment or modification, to the commission. Within 10 days after resubmission of the proposed budget, the commission shall approve, or amend or

¹ As applied in this act, the "board" means "a hospital board which is selected in accordance with the provisions of this act and which is vested with the management and control of a county hospital." K.S.A. 19-4601(a).

² As applied in this act, "commission" means the board of county commissioners. K.S.A. 19-4601(b).

modify and approve as amended or modified, such proposed budget. The commission shall adopt the proposed budget as approved and shall make the same a part of the regular county budget. In the case of an elected board, submission of the budget to the commission shall not be required. (Emphasis added).

The second statutory provision is K.S.A. 19-4610(a):

The board shall have the exclusive control of the expenditures of all hospital moneys^[3], except hospital moneys acquired through the issuance of revenue bonds, and all expenditures shall be subject to the approval of a majority of all the members of the board.

Analysis of this issue requires statutory interpretation. Statutory interpretation begins with the text of the statute, giving words their ordinary, everyday meanings.⁴ Only when the language is ambiguous are canons of statutory construction, legislative history, or other background information employed to discern the statute's meaning.⁵

The plain language of K.S.A. 19-4607(c) directs a non-elected hospital board, such as SWMC's board, to submit both a proposed budget *and* the portion of that budget to be raised by tax each year to the county commission without consideration as to whether the hospital board is requesting revenue via tax. Accordingly, a non-elected hospital board must submit its budget to the county commission each year for approval, regardless of whether a tax is raised to help fund the budget.

Your letter suggests a conflict exists between K.S.A. 19-4607(c) and 19-4610(a). An analysis of the two statutory provisions establish that they are not conflicting.

Even when the statutory language is clear, various provision of an act should still be considered *in pari materia* "to reconcile and bring those provisions into workable harmony, if possible."⁶ The doctrine of *in pari materia* "can be used as a tool to assess whether the statutory language is plain and unambiguous in the first instance, and it can provide substance and meaning to a court's plain language interpretation of a statute."⁷ In construing an act *in pari materia*, statutes are

³ "Hospital moneys' means, but is not limited to, moneys acquired through the issuance of bonds, the levy of taxes, the receipt of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital." K.S.A. 19-4601(d).

⁴ *Nauheim v. City of Topeka*, 309 Kan. 145, 149-50, 432 P.3d 647 (2019).

⁵ *Id.*

⁶ *Bruce v. Kelly*, 316 Kan. 218, 224, 514 P.3d 1007 (2022).

⁷ *Id.*

construed to avoid unreasonable or absurd results with the presumption that the Legislature did not intend to enact meaningless legislation.⁸

K.S.A. 19-4607 and 19-4610 were passed together by the Legislature in 1984 as part of one act.⁹ As the Legislature passed these two statutes together as part of the same act, interpreting them in a manner that would put them in conflict with each other would create an absurd result. Instead, we strive to interpret them in harmony.

A straightforward interpretation of K.S.A. 19-4607(c) and 19-4610(a) is that they address two different topics. K.S.A. 19-4607(c) requires a board to create a budget for the hospital each year and submit it to the commissioners for approval. K.S.A. 19-4610(a) gives the board exclusive control over the actual expenditure of hospital moneys, except when acquired by revenue bonds.

The process works as follows. K.S.A. 19-4607(c) applies to the budget-creation process. A board must create a proposed budget and send it to the commission, with a statement of the proportion of the budget that requires a tax for approval. K.S.A. 19-4607(c) goes on to explain the approval process, including permitting a commission to amend or modify the proposed budget after resubmission. K.S.A. 19-4610(a), on the other hand, applies to the actual spending of hospital moneys after a budget's creation. After a budget has been approved for the hospital for the year, the board controls the expenditure decisions, except for hospital moneys raised via revenue bonds. The commission lacks authority to direct specific spending decisions, with the sole exception being revenue bonds, which have a specific statutory purpose.¹⁰ Therefore, K.S.A. 19-4607(c) and 19-4610(a) work harmoniously within the act by applying to two different subjects.

Even if K.S.A. 19-4607(c)'s allowance of a commission to amend or modify a proposed budget on resubmission were interpreted to conflict with K.S.A. 19-4610(a)'s grant of exclusive control over hospital moneys, the ultimate conclusion would remain the same. Specific statutes control over general statutes.¹¹ Here, K.S.A. 19-4610(a) is the general statute, and K.S.A. 19-4607(c) the specific statute. K.S.A. 19-4610(a) creates a general authority to a board to control hospital moneys. But, within that monetary realm, K.S.A. 19-4607(c) requires all hospital budgets from non-elected boards to be approved by the commission. Thus, it operates, as the specific statute, as a carve out to require a board to obtain commission approval of a budget before the board can spend the money as it deems best.

Accordingly, SWMC's board must submit its proposed budget to the commissioners for approval. K.S.A. 19-4607(c) states that a board "shall" prepare a budget showing

⁸ *In re Marriage of Traster*, 301 Kan. 88, 98, 339 P.3d 778 (2014).

⁹ 1984 Kan. Sess. Laws ch. 98, § 7, 10.

¹⁰ See K.S.A. 19-4616.

¹¹ *State ex rel. Schmidt v. Kelly*, 309 Kan. 887, 898, 441 P.3d 67 (2019).

the amount it deems necessary “and the amount of that portion thereof that it deems necessary to be raised by the tax authorized under K.S.A. 19-4606.” The statute then directs that the board “shall submit its proposed budget to the commission.” K.S.A. 19-4607(c) requires a board to prepare a budget and submit it to the commission. With that budget, the board also must state the amount it believes necessary to raise from a tax under K.S.A. 19-4606. “Shall” in this statute denotes mandatory language.¹² As such, K.S.A. 19-4607(c)’s direction applies even if the requested portion raised via tax is \$0. The portion the board intends to fund via tax is required by statute to accompany the proposed budgeted.

K.S.A. 19-4607(c) and 19-4610(a) work in harmony. The plain language of K.S.A. 19-4607(c) requires the budget be submitted to the commission along with the amount the board deems necessary to be raised from a tax under K.S.A. 19-4606. SWMC is thus required to submit its budget to the Seward County Board of Commissioners for approval, even if it does not intend to fund any portion of its budget from a tax raised under K.S.A. 19-4606.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Attorney General

/s/ Ryan J. Ott

Ryan J. Ott
Assistant Solicitor General

¹² See Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 114 (2012) (“[W]hen the word shall can reasonably be read as mandatory, it ought to be so read.”).