

COUNTY TUBERCULOSIS
HOSPITAL:

No responsibility accrues to the State of Missouri for the care of patients in a County Tuberculosis Hospital if such hospital is closed; such patients may be admitted to the Missouri State Sanatorium only upon a county order.

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Honorable Buford G. Hamilton, M. D.
Director, Division of Health
of Missouri
State Office Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department, your request reads in part as follows:

"Representative Ken Reynolds of Jasper County has indicated that the Board of Hospital Commissioners of Jasper County Tuberculosis Hospital plan to close that institution because they do not have adequate funds with which to continue operation.

"It has been inferred that the State of Missouri will immediately become responsible for the care of such patients as are in the Jasper County Tuberculosis Hospital when that institution is closed.

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"Your opinion is requested in response to the following questions:

"I. What is the course which must be followed in closing a county tuberculosis hospital?

"II. What responsibility accrues to the State of Missouri for the care of patients in a county tuberculosis hospital at the time such hospital is closed?

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"III. Do circumstances exist under which a group of charity patients who have tuberculosis might be admitted to the Missouri State Sanatorium without receiving a court order from the county or counties of residence of such patients?"

We assume you are seeking an answer to Question No. 1 so that you would be advised as to what you or your department would be required to do provided it was decided to close the Jasper County Tuberculosis Hospital. We have examined the statutes of this state relating to a county tuberculosis hospital, (Sections 205.380 to 205.450, inclusive, RSMo 1949), and we are unable to find that the law imposes any duty on you or your department in connection with closing a county tuberculosis hospital.

You next inquire as to what responsibility accrues to the State of Missouri for the care of patients in a county tuberculosis hospital at the time such hospital is closed. There is no legal obligation at common law on a state to furnish relief to paupers. The obligation to support such persons results only from some constitutional or statutory provision imposing legal obligation. We are unable to find any provision creating a legal obligation to care for indigent patients in a county tuberculosis hospital if it should be closed. Certainly there would be no obligation upon the state in regard to other than charity patients. Therefore, we are of the opinion that patients at a county tuberculosis hospital at the time of its closing are in a like position with persons suffering from such diseases who have never been admitted to a public institution for care and treatment.

Section 205.580, RSMo 1949, provides as follows:

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

Under this provision the primary responsibility for poor persons is placed upon the county of which they are inhabitants. Section 199.030, RSMo 1949, provides for the admission of patients who have no ability to pay to the state sanatorium. This section reads as follows:

"The division of health is hereby given power to receive into the institution, patients who have no ability to pay, but no person shall be admitted who has not been a citizen of this state for at least one year preceding the date of application. Each person desiring free

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treatment at said sanatorium shall apply under oath to the county court in which he or she may reside, and if a resident of the city of St. Louis, to the comptroller of said city. Such applicant shall present a statement to the county court, supported by a statement of his family physician, setting out that he or she is suffering from pulmonary tuberculosis and/or that he should be under treatment and observation by the physicians at the sanatorium for such treatment and to determine whether or not he has pulmonary tuberculosis. Such applicant shall further furnish to the county court sworn statements of two residents of his county certifying that he or she is unable to pay for care at the sanatorium. If the county court shall find that the applicant is a suitable case for admission as a free patient to the sanatorium, then the county shall cause an order to be issued for the admission of the applicant and shall immediately transmit a certified copy of such order to the superintendent of the institution. Such county orders shall upon receipt by the superintendent be entered in a record book, and the superintendent, so far as practicable, shall admit such applicants as their names appear on the record book; provided, however, that admissions from the various counties, in case there is a waiting list, shall be prorated according to the population of the counties."

Since no responsibility accrues to the state for the care of patients in a county tuberculosis hospital at the time it is closed and since there is no liability on the part of the state to care for indigent patients except by statutory or constitutional provision, we do not believe that circumstances exist under which a group of charity tuberculosis patients could be admitted to the Missouri State Sanatorium without complying with the provisions of Section 199.030, RSMo 1949.

CONCLUSION

Therefore, it is the opinion of this department that the law imposes no duty on you or your department in connection with closing

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a county tuberculosis hospital.

We are further of the opinion that since no responsibility accrues to the state of Missouri for the care of patients in a county tuberculosis hospital at the time such hospital was closed, circumstances do not exist under which charity patients may be admitted to Missouri State Sanatoriums without first a court order from the county or counties of residence of such patients.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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