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HOSPITAL TRUSTEES—AUTHORITY TO JOIN CREDIT BUREAU—OBTAIN AND PAY REASONABLE FEES FOR CREDIT INFORMATION AND REPORTS—SECTION 339.06 R. C.

SYLLABUS:

Under the provisions of Section 339.06, Revised Code, a board of county hospital trustees is authorized to join a credit bureau for the purpose of obtaining credit information and to pay a reasonable fee therefor and to pay the reasonable expenses of obtaining credit reports on individual accounts in cases where the board deems such services necessary to the efficient operation of the hospital's fiscal affairs.

Columbus, Ohio, October 26, 1956

Hon. Oliver R. Marshall, Prosecuting Attorney
Lake County, Painesville, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Operations of the Lake County Memorial Hospital have greatly expanded in recent years and with the increase in the number of patients, the problems of collecting accounts has expanded accordingly. Business institutions and private hospitals doing a similar volume of business and handling a number of

accounts quite generally employ the services of a Credit Bureau to obtain credit reports. Section 339.06 of the Revised Code of Ohio, relating to operations of county hospitals by trustees and the appointment of an administrator, provides for the entire management and control of a county hospital and its patients by a Board of Trustees and means for doing so by the employment of an administrator to manage the hospital, and Section 339.07 states the duties of the administrator. These sections read together, evince an intention of the legislature to put the management of a county hospital on a businesslike basis.

My questions are as follows:

1. May the Board of Trustees of a county hospital pay a fee to join a Credit Bureau, for the purpose of obtaining general credit information?
2. May a Board of Trustees of a county hospital pay the expenses of obtaining credit reports on individual accounts?"

A question closely related to yours was under consideration in Opinion No. 2770, Opinions of the Attorney General for 1953, page 290. The syllabus of that opinion reads:

"The board of trustees of a county tuberculosis hospital operated, managed and controlled as provided in Section 3139-13, General Code, is without authority to employ a collection agency to collect unpaid charges against patients and former patients in such hospital, but any such claims as cannot be collected by the board by ordinary administrative means should be collected by the prosecuting attorney of the county concerned, as provided in Section 2921, General Code."

In that opinion an examination was first made of the statutes relative to the control and management of county tuberculosis hospitals, particularly with regard to the receipt of funds. I then said:

"It will be observed that county hospitals are supported in large part by public funds raised by taxation and are staffed by public officers and employees. They are created by the action of public officers, or by vote of the electors, under authority of a state statute. They must, therefore, be regarded as purely public organizations and any revenues realized from their operations must be regarded as public funds. This being so, it follows that claims against patients in favor of a county hospital constitute public property, and when such claims are paid, the moneys so received become public funds. Accordingly any arrangement whereby a percentage allowance is made to a collection agency for the collection of such claims would be an expenditure of public funds.

“The authority to make such expenditure, however, must be provided by statute in terms that are free of doubt. In *State ex rel. A. Bentley Co. v. Pierce*, 96 St., 44, the third paragraph of the syllabus is as follows :

‘3. In case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power.’

“In the instant case the language of the pertinent statutes is such to raise a serious doubt, to say the least, as to the authority of the board of trustees of a county tuberculosis hospital to expend public funds in the employment of a private collection agency, and such doubt under the rule in the Bentley case must be resolved against the grant of power.”

The statutory provisions which govern the present case are, however, significantly different from those examined in the 1953 opinion. In fact, Section 339.06, Revised Code, was amended, effective in October 1953, to increase the powers of the boards of county hospital trustees in respect to the management of their fiscal affairs. That section, as presently effective after another amendment in 1955, provides, quoting the pertinent part :

“The board of county hospital trustees shall upon completion of construction and equipping of the county hospital, assume and continue the operation of such hospital. The board of county hospital trustees shall have the entire management and control of the hospital, and shall establish such rules for its government and the admission of persons as are expedient.

“The board of county hospital trustees has control of the property of the hospital, and all funds used in its operation. The board of county hospital trustees shall deposit all moneys received from the operation of the hospital or appropriated for its operation by the board of county commissioners, or resulting from special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code, to its credit in banks or trust companies designated by it, which fund shall be known as the hospital operating fund. Such banks or trust companies shall furnish security for every such deposit to the extent and in the manner provided in section 135.16 of the Revised Code, but no such deposit shall otherwise be subject to the provisions of sections 135.01 to 135.23, inclusive of the Revised Code. The board of trustees shall not expend such funds until its budget for that calendar year is submitted to and approved by the board of county commissioners. Thereafter such funds may be disbursed by the board of county hospital trustees for the uses and purposes of such hospital, on a voucher signed by the administrator, provided for in

this section, regularly approved by the board of county hospital trustees and signed by two members of the board of county hospital trustees. All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners.

* * *

“The board of county hospital trustees shall fix the compensation to be paid by or for all patients for all services and treatment rendered by the county hospital. It may provide for the free treatment in such hospital of soldiers, sailors, and marines of the county, under such conditions and regulations as it prescribes.”

Obviously, the power here in question is not *specifically* granted. If it exists, it must be by implication ;and, under the rule of State ex rel. Bentley, supra, it must be very clearly implied.

As you have observed in your request, it is incumbent upon boards of county hospital trustees to operate their hospitals in as efficient and businesslike a manner as possible. Section 339.06, supra, grants broad powers of management and control. In view of the complexities involved in the proper management of a modern business operation, particularly one involving a considerable volume of credit extension, I conclude that a statute which commits the “entire management and control of the hospital” to the board of trustees may be deemed by implication to authorize them to avail themselves of commercial credit reports in cases where they deem such services necessary to the efficient operation of the hospital’s fiscal affairs.

Accordingly, it is my opinion, and you are advised, that under the provisions of Section 339.06, Revised Code, a board of county hospital trustees is authorized to join a credit bureau for the purpose of obtaining credit information and to pay a reasonable fee therefor and to pay the reasonable expenses of obtaining credit reports on individual accounts in cases where the board deems such services necessary to the efficient operation of the hospital’s fiscal affairs.

Respectfully,

C. WILLIAM O’NEILL
Attorney General