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COUNTY COMMISSIONER—OPERATING A COUNTY HOME,
MAY PROVIDE ALL NECESSARY MEDICAL AND SURGICAL
SERVICES IN THE HOME ITSELF—CHAPTER 5155., R.C.—
§§5155.22, 5155.27, R.C.

SYLLABUS:

1. A board of county commissioners in its operation of a county home pursuant to Chapter 5155., Revised Code, may provide all necessary medical and surgical services in the home itself to persons who have been admitted to the home pursuant to Section 5155.22, Revised Code.

2. A board of county commissioners may enter into a contract with a proper medical school for the furnishing of the medical and surgical services necessary for the care of the inmates of a county home, but such contract must comply with the provisions of Section 5155.27, Revised Code.

Columbus, Ohio, March 31, 1960

Hon. C. Watson Hover, Prosecuting Attorney
Hamilton County, Cincinnati, Ohio

Dear Sir:

Your request for my opinion states in part:

“Your Informal Opinion No. 103, dated December 9, 1959, has been closely studied by this office and by other interested local agencies, both public and private. While it is, of course, not questioned that a Board of County Commissioners may not operate a county hospital as your opinion states, the information furnished your office apparently was not sufficiently accurate or detailed to permit a determination of whether or not the facility known as ‘Drake Memorial Hospital’ is, both in fact or in legal contemplation, a county hospital.

“The Board of County Commissioners here has never knowingly attempted to operate ‘a county hospital’, nor has it ever operated anything other than a hospital pavilion of an established county home, nor has there been any representation that this institution is a ‘county hospital’, under the provisions of R.C. 339.01.”

The request then gives a history of the Hamilton County Home and the hospital facility now known as “Drake Memorial Hospital.” In this regard you state :

“As stated above, the hospital portion of The County Home is not, nor has it ever been, open to all patients as, we understand, is the intent of public hospitals generally, including those classifiable under the statute as ‘county hospitals’. The admission policy executed by The Hamilton County Welfare Department, and pursuant to the original intent of the construction program and the federal grant-in-aid, is to screen patient-inmates to determine that they are properly classifiable as county charges and to so report to the Superintendent of The County Home.”

You then ask the following specific questions :

“1. Can a Board of County Commissioners, as a part of its operation of a county home, provide all necessary medical and surgical services in the Home itself to Patient-inmates eligible, because of type of illness or economic or medical indigency, for care in a county home?

“2. In operating such an institution, may the Board of County Commissioners enter into a contract with the University of Cincinnati, a municipally owned institution, to furnish the necessary medical and surgical services through its College of Medicine?”

The question of whether the Daniel Drake facility is operated as a general hospital, a county hospital or a hospital facility of the county home, is a question of fact which I, of course, am in no position to determine. Since your questions are concerned only with the furnishing of medical services to inmates of a county home, however, I do not consider it necessary for me to discuss the particular fact situation existing in Hamilton county in answering your request. Actually, while your interest is naturally in the question pertaining to Hamilton county, the questions you ask appear to be of a general nature and might be pertinent in more than one county of the state.

The statutes pertaining to county homes are now contained in Chapter 5155., Revised Code, having been renumbered by Amended Substitute House Bill No. 926 of the 102nd General Assembly, effective September 14, 1957. Before that date such statutes were contained in Chapter 337., Revised Code.

There is no specific provision in Chapter 5155., *supra*, for the erecting or operation of a hospital as a part of a county home. Section 5155.27, Revised Code, does, however, authorize the board of county commissioners to contract with one or more physicians to furnish medical relief and medicines necessary for the inmates of the county home, reading as follows:

“The board of county commissioners may contract with one or more competent physicians to furnish medical relief and medicines necessary for the inmates of the county home, but no contract shall extend beyond one year. Medical statistics shall be kept by the physician, who shall report such statistics to the board quarterly. Such statistics shall show the nature and extent of the services rendered, to whom rendered, and the character of the diseases treated. The board may discharge any such physician for proper cause. No medical relief shall be furnished by the county to persons in their own home, except for persons who are not residents of the state or county for one year, or of a township or city for three months, and except under section 5155.22 of the Revised Code.”

I believe that “medical relief” when interpreted in the broad sense includes medical and surgical services which would be furnished by a hospital. Further, I am of the opinion that authority for the institution of a hospital as a part of a county home must be implied since many of the inmates of a county home are in the institution because of advanced age or mental or physical disability making it impossible to care for them in their own homes. The institution of a hospital to care for these inmates would clearly be a part of the operation of the home. (See Opinion No. 6274, Opinions of the Attorney General for 1956, page 121 at pages 123, 124.)

Regarding admission to a county home, Section 5155.22, Revised Code, reads:

“In any county having a county home, when a board of township trustees or the proper officers of a municipal corporation, after making the inquiry provided by law, are of the opinion that the person complained of is entitled to admission to such home, they shall forthwith transmit a statement of the facts to the

superintendent of the home. If it appears that such person is legally settled in the township or has no legal settlement in this state, or that such settlement is unknown, and the superintendent of the home is satisfied that such person should become a county charge, the superintendent shall admit such person as a county charge and shall receive and provide for him in such institution forthwith, or as soon as the physical condition of such person will so permit. The county shall not be liable for any relief furnished, or expenses incurred by the board.

Thus, an inmate of a county home is a person who has been admitted under Section 5155.22, *supra*, and who has become a county charge pursuant to said section. The county home hospital would, of course, be for the care of such persons only.

In answer to your first question, therefore, I am of the opinion that a board of county commissioners may, as a part of its operation of a county home, provide all necessary medical and surgical services for inmates of the county home.

Coming to your second question, Chapter 5155., Revised Code, does not provide express authority for a contract such as you mention. Section 5155.27, *supra*, does, however, authorize the board of county commissioners "to contract with one or more competent physicians to furnish medical relief and medicines necessary for the inmates of the county home." The section further provides that such physician report to the board quarterly and that the board may "discharge any such physician for proper cause." I see no reason why the board should not contract with a medical school for the furnishing of competent physicians if the board deems it advisable and I consider that authority for such a contract may be reasonably implied.

Since said Section 5155.27, provides authority for the employment of physicians I believe that any such employment must be done in accordance with that section. Thus, although I deem it appropriate for the board to enter into a contract with a medical school for the furnishing of competent physicians, such contract must comply with Section 5155.27, *supra*.

Accordingly, it is my opinion and you are advised:

1. A board of county commissioners in its operation of a county home pursuant to Chapter 5155., Revised Code, may provide all necessary medical and surgical services in the home itself to persons who have been admitted to the home pursuant to Section 5155.22, Revised Code.

2. A board of county commissioners may enter into a contract with a proper medical school for the furnishing of the medical and surgical services necessary for the care of the inmates of a county home, but such contract must comply with the provisions of Section 5155.27, Revised Code.

Respectfully,

MARK McELROY

Attorney General.