

Note from the Attorney General's Office:

1962 Op. Att'y Gen. No. 62-3199 was overruled by
2010 Op. Att'y Gen. No. 2010-024.

3199

A BOARD OF COUNTY HOSPITAL TRUSTEES HAVE NO AUTHORITY TO SELL OR ASSIGN ITS DELINQUENT ACCOUNTS —§339.03, R.C.

SYLLABUS:

Under Section 339.03, Revised Code, a board of county hospital trustees has no authority to sell or assign its delinquent accounts.

Columbus, Ohio, August 11, 1962

Hon. John G. Peterson, Prosecuting Attorney
Greene County, Xenia, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Re: Collection of Accounts for County Hospital.

“We have received a request from the Greene Memorial Hospital a tax supported institution which was built and is operated by a bond issue voted by the electors of Greene County, Ohio, for an opinion in regard to the collection of accounts. Their letter is as follows: ‘All hospitals, such as ours, are confronted with collecting problems. As of this date, we are endeavoring to collect amounts due us through a standard procedure of employing an authorized collection agency. In the past six months, as we have been carrying out this program, our results have been rather limited. Basically because our bad accounts range anywhere from six months to eleven years of age. In this period of time our gross recoveries from agencies that have in excess of Ninety-two Thousand dollars (\$92,000.00) worth in accounts, the recovery has only been Seven Thousand One Hundred Eighty-nine dollars and Thirty-four cents (\$7,189.34). Of this amount we had a collection expense of Four Thousand Seventy-four dollars and Fifty-three cents (\$4,074.53). You can readily see that the amount of these bad accounts that will be recovered is in percentage very small.

“Per the Ohio code section 339.03, the Board of Trustees has the right to employ legal counsel and collection agencies for matters such as these, but the code continues and states . . . or other legal means. My question is, what is the Attorney General’s

opinion of . . . or other legal means'? I have been approached from finance companies to buy these Ninety-two Thousand dollars (\$92,000.00) worth of bad accounts. This is acceptable practice in today's business world and if we are permitted to proceed on a program such as this I am sure that our recoveries would be at least 300% greater than those that we now realize.

"In summation, I wish to state that we are not in the finance business and it is imperative that we obtain monies due us as rapidly as possible. To insure an equitable price for these accounts *without recourse*, I would plan to place the accounts on open bid and eventually release them to the highest bidder."

Section 339.03, Revised Code, provides in pertinent part as follows:

"The board of county hospital trustees with the approval of the county commissioners may employ counsel and institute legal action in its own name for the collection of delinquent accounts. *The board may also employ any other lawful means for the collection of delinquent accounts.* (Emphasis added)

Thus, with regard to delinquent accounts, the only authority of the board of county hospital trustees is to collect them. In Merriam-Webster's New International Dictionary (3rd Ed), the words "collection" and "collect" are defined as follows:

"Collection: the act of collecting (as taxes by a tax collector): *specif*: the securing of payment of a check, bond coupon, or other credit instrument by presentation to the payor for cash.

"Collect: to present as due and receive payment for (a bill)."

Under Section 339.03, *supra*, the board of hospital trustees may employ counsel and institute legal action to collect the delinquent accounts, or it may employ "any lawful means for the collection of delinquent accounts." It has been held that the words "any other" apply only to such matters as are *ejusdem generis* with those comprehended in the preceding part of a section. *Lane v. The State*, 39 Ohio St., 312 (1883). Thus, the words "any other" must be read as "other such like, and to include only others of like kind and character." Words and Phrases, Volume 34, page 147.

"Any other lawful means for the collection of delinquent accounts," therefore, would refer to means such as employing counsel and instituting legal action. If the legislature had intended that a board of hospital

trustees could sell or assign its delinquent accounts, then, in my opinion, it would not have used the words "any other" and "collection."

In answer to your question, therefore, it is my opinion and you are advised that, under Section 339.03, Revised Code, a board of county hospital trustees has no authority to sell or assign its delinquent accounts.

Respectfully,

MARK McELROY

Attorney General