

240

1. TUBERCULOSIS HOSPITAL, COUNTY — MANDATORY DUTY, BOARD OF TRUSTEES TO SET UP AND MAINTAIN OWN BOOKS AND ACCOUNTS OF ALL MONEYS RECEIVED.
2. TO RECEIVE STATE SUBSIDY, BOARD OF TRUSTEES MUST MAINTAIN UNDER ITS CONTROL BOOKS OF ACCOUNTS OF HOSPITAL.

SYLLABUS:

1. It is the mandatory duty of a board of trustees of a county tuberculosis hospital to set up and maintain its own books of accounts of all moneys received.
2. The board of trustees, in order to receive state subsidy, must maintain under its control the books of accounts of a county tuberculosis hospital.

Columbus, Ohio, March 9, 1949

Hon. Stanley N. Husted, Prosecuting Attorney
Clark County, Springfield, Ohio

Dear Sir:

This is to acknowledge receipt of your letter requesting my opinion on the following questions:

“Under the now existing laws pertaining to the operation and maintenance of a county tuberculosis hospital where a board of trustees has been appointed by the county commissioners, is it mandatory that the board of trustees of such institution set up their own books of accounts received and make disbursements against the funds so deposited by them in a bank or trust company in the operation of said institution?”

“Would the fact that the books of said institution are being kept by the county auditor’s office rather than by the board of trustees have any bearing upon the payment of subsidies by the state, which are set out under Section 3139-23, General Code of Ohio, to the trustees of a county tuberculosis hospital?”

The laws applicable to the above mentioned questions are Section 3139-13, which reads in part as follows:

“The management and control of such county tuberculosis hospital *shall* be vested in a board of trustees * * *. Such board

of trustees *shall* have all the powers conferred by law upon the board of trustees of a district hospital * * *. The provisions of section 3139-6 requiring trustees of district hospitals to give bond for the faithful performance of their duties and providing the manner in which such bond shall be given, *shall* be applicable to trustees of a county hospital. *An accurate account shall be kept of all moneys received from patients or from other sources. * * **"
(Emphasis added.)

and Section 3139-23, which provides:

"On and after July 1, 1947, the state *shall* pay to the board of trustees * * * of any county * * * tuberculosis hospital * * * the sum of * * *."

"The board of trustees of each such county * * * hospital * * * *shall* * * * certify to the auditor of state, * * * the number of persons hospitalized * * *. Upon receipt of such certification, the auditor of state shall draw warrants * * * in favor of the trustees of such county * * * hospital, * * *."
(Emphasis added.)

The above sections are *pari materia* and thus must be construed with reference to each other. You will note that the word "shall" is used throughout the foregoing sections, and even though Section 3139-13 does not say who shall keep an accurate account, it does provide for the giving of bonds by the trustees for the faithful performance of their duty. It necessarily follows, and it would seem to me that they would so desire, that an accurate account of all moneys for which the said board is charged should be kept by it and under its control.

Furthermore, Section 3139-23 can leave no doubt in anyone's mind that an accurate account shall be kept by the board of trustees. In that section it charges them with the duty of certifying to the auditor of state such information as is required for the purpose of payment of state subsidy, and unless it is so certified the state auditor is without authority to pay the same.

It is my opinion that (1) it is the mandatory duty of a board of trustees of a county tuberculosis hospital to set up and maintain its own books of accounts of all moneys received, and (2) that the board of trustees, in order to receive state subsidy, must maintain under its control the books of accounts of a county tuberculosis hospital.

Respectfully,

HERBERT S. DUFFY,
Attorney General.