

## OPINION NO. 72-111

**Syllabus:**

A board of county commissioners is not authorized under Section 305.171, Revised Code, to contract with a nonprofit health care corporation for group health care services.

**To: Kenneth E. DeShetler, Director of Insurance, Columbus, Ohio**  
**By: William J. Brown, Attorney General, November 29, 1972**

I am in receipt of your request for my opinion, which may be stated as follows:

1. Is a board of county commissioners authorized under Section 305.171, Revised Code, to contract with a nonprofit health care corporation for group health care services?

2. May a board of county commissioners offer a variety of group coverages through multiple carriers, including nonprofit health care corporations, or is the board limited by Section 305.171, Revised Code, to a single contract for such group coverages?

Section 305.171, Revised Code, which authorizes a board of county commissioners to procure and pay for group medical and hospitalization insurance or coverage for county employees, reads as follows:

"The board of county commissioners of any county may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for county officers and employees and their immediate dependents from the funds or budgets from which said officers or employees are compensated for services, whether issued by an insurance company, a hospital service association, or a nonprofit medical care corporation duly authorized to do business in this state."

(Emphasis added.)

Your first question asks whether, under this Section, a board of county commissioners is authorized to contract with a nonprofit health care corporation for group health care services. Section 305.171 provides that a board of county commissioners may procure health insurance or coverage for county employees from either an insurance company, a hospital service association, or a nonprofit medical care corporation. Since this Section provides no express authority for a board of county commissioners to contract with a nonprofit health care corporation,

such authority, if it exists at all, must be implied from the language of the Section.

I have been able to find nothing which would permit such an implication. On the contrary, the rules of statutory construction create a presumption that the legislature, by granting the authority to contract with insurance companies, hospital service associations, and nonprofit medical care corporations, but omitting nonprofit health care corporations, did not intend to permit a board of county commissioners to contract with such nonprofit health care corporations. In a recent Opinion, involving group insurance policies for state employees, I noted that the omission of the word "annuities" in the statute was indicative of the intent of the General Assembly. That Opinion, No. 71-047, Opinions of the Attorney General for 1971, said:

"The omission of 'annuities' from the amendment is, however, striking, and in this respect the General Assembly must have intended to accept my predecessor's view that a group plan was not necessary to justify deductions for annuity premiums. Such a significant statutory omission is presumed to have been intentional. 50 O. Jur. 2d 139."

This conclusion is strengthened by the fact that the Revised Code deals with medical care corporations, health care corporations, and hospital service associations in separate, consecutive chapters, Chapters 1737, 1738 and 1739, respectively. Since these Chapters were all in existence before Section 305.171 became law, the omission of one of these three types of organizations from Section 305.171 must have been intentional. I am forced to conclude, therefore, that a board of county commissioners is not authorized to contract with a nonprofit health care corporation for group health care services.

An answer to your second question is obviated by what has already been said, since that question also is primarily concerned with nonprofit health care corporations.

In specific answer to your question it is, therefore, my opinion, and you are so advised that a board of county commissioners is not authorized under Section 305.171, Revised Code, to contract with a nonprofit health care corporation for group health care services.