

2965.

TUBERCULOSIS — COUNTY COMMISSIONERS UNAUTHORIZED TO PROVIDE CARE OR TREATMENT OF TUBERCULAR PATIENTS IN ANY PLACE OR INSTITUTION NOT APPROVED BY STATE BOARD OF HEALTH.

SYLLABUS:

The county commissioners have no authority to provide for the care and treatment of tubercular persons in any place or institution which is not approved by the state board of health.

COLUMBUS, OHIO, July 28, 1934.

HON. H. G. SOUTHARD, *Director, Department of Health, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads in part as follows:

“It has been brought to the attention of this department that in a number of counties the county commissioners have made arrangement, by contract or agreement, with individuals to provide care and treatment for cases of tuberculosis.

Such investigations as we have made have disclosed that most of these private places where tuberculosis cases have been sent are no more than boarding houses, and that the patients do not have anything approximating the care and treatment that they would receive in a tuberculosis hospital, and do not see a physician except on special call.

I shall be glad to have your opinion as to the authority of the board of county commissioners to provide for the care and treatment of a case of tuberculosis in any other place or institution other than one approved by the state board of health.”

Section 3143, General Code, provides:

“Instead of joining in the erection of a district hospital for tuberculosis, as hereinafter provided for the county commissioners may contract with the board of trustees, as hereinafter provided for, of a district hospital, the county commissioners of a county now maintaining a county hospital for tuberculosis or with the proper officer of a municipality where such hospital has been constructed, for the care and treatment of the inmates of such infirmary or other residents of the county who are suffering from tuberculosis. The commissioners of the county in which such patients reside shall pay to the board of trustees of the district hospital or into the proper fund of the county maintaining a hospital for tuberculosis, or into the proper fund of the city receiving such patients, the actual cost incurred in their care and treatment, and other necessities, and they shall also pay for their transportation.

Provided, that the county commissioners of any county may contract for the care and treatment of the inmates of the county infirmary

or other residents of the county suffering from tuberculosis with an association or corporation, incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis; *but no such contract shall be made until the institution has been inspected and approved by the state board of health, and such approval may be withdrawn and such contracts shall be cancelled if, in the judgment of the state board of health, the institution is not managed in a proper manner.* Provided, however, that if such approval is withdrawn, the board of trustees of such institution may have the right of appeal to the governor and attorney general and their decision shall be final." (Italics the writer's.)

Section 3147, General Code, provides:

"The state department of health shall have general supervision of all hospitals for tuberculosis and shall prescribe and may enforce such rules and regulations for their government as it deems necessary. All persons in charge of or employed at such hospital or residents thereof, shall faithfully obey and comply with all such rules and regulations. The location, plans and estimates of cost for all district hospitals for tuberculosis or additions thereto shall be submitted to and approved by the state department of health, and the board of state charities."

Section 3144, General Code, provides inter alia:

"* * * The state board of health upon a proper presentation of facts, shall also have authority to order removed to a municipal, county or district hospital for tuberculosis, any person suffering from tuberculosis, when in the opinion of the state or a local board of health, such person is a menace to the public and cannot receive suitable care or treatment at home, provided, however, that such person shall have the right to remove from the state."

Under the authority of this last quoted section, it was held in the opinion of my immediate predecessor in office to be found in Opinions of the Attorney General for 1932, Vol. 2, p. 1177, as disclosed by the syllabus:

"A county may, under proper circumstances, afford relief in the home to a person permanently disabled through tuberculosis."

It is to be noted that this opinion involved the tubercular patient's own home and not the private home of others.

It was also held in my Opinion No. 2388, rendered March 21, 1934, that the county commissioners could pay for the care and support of a tubercular child in an approved private family *pending commitment to an institution for tubercular patients.*

However, neither of these two opinions are a real exception to the rule that the places or institutions where tubercular patients are housed and cared for should be approved by the state board of health. My examination of the General

Code fails to reveal any express provision authorizing permanent care of tubercular patients in any place or any institution unless such are approved by the state board of health. The General Assembly has made elaborate provisions for institutional care for persons suffering from tuberculosis (Sections 3140 to 3153-7, General Code), and inasmuch as the protection of other residents of the county is involved, it is my opinion that, the county commissioners have no authority to provide for the care and treatment of tubercular persons in any place or institution which is not approved by the state board of health.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2966.

BANK—MAY LOAN MONEY TO SUPERINTENDENT OF BANKS
WHEN—MAXIMUM LOAN ALLOWED.

SYLLABUS:

Section 710-122, General Code, does not prohibit a bank, organized and operating under the laws of this state, from making loans to the superintendent of banks in possession of the business and property of a bank for liquidation, which borrowings are made by the superintendent under section 710-95a, General Code, providing such lending bank does not loan to the superintendent, as statutory receiver of any particular bank, a sum in excess of 20% of its paid-in capital stock and surplus.

COLUMBUS, OHIO, July 28, 1934.

HON. I. J. FULTON, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—I have your request for my opinion which reads as follows:

“As Superintendent of Banks in charge of the liquidation of several banks under my jurisdiction, I desire to borrow money in accordance with the provisions of Section 710-95a of the General Code in order to make available for the depositors and creditors of such banks early dividends.

One state bank has expressed its willingness to make several loans to me in the capacity and for the purpose mentioned above. However, the question has arisen as to whether or not, if in the case of each separate liquidation the bank makes a loan to me in an amount equal to twenty per cent of its capital stock and surplus, my borrowings from this bank would entail a violation of Section 710-122 of the General Code of Ohio.

For example, ‘A’ bank, a corporation organized and transacting business under the laws of this state and having a capital stock and surplus in the aggregate amount of \$1,000,000, loans \$200,000 to the Superintendent of Banks in charge of the liquidation of ‘X’ bank and also \$200,000 to the Superintendent of Banks in charge of the liquidation of ‘Y’ bank. Each separate loan is within the statutory limitation,