

**OPINION NO. 76-004****Syllabus:**

R.C. 325.20, requiring approval by the Board of County Commissioners before county employees may attend association meetings or conventions, applies to employees of County Hospital Boards which are established pursuant to R.C. Chapter 339 and County Boards of Mental Retardation which are established pursuant to R.C. Chapter 5126, but does not apply to employees of Community Mental Health and Retardation Boards which are established pursuant to R.C. Chapter 340.

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**To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio**  
**By: William J. Brown, Attorney General, January 28, 1976**

I have before me your request for my opinion which reads as follows:

"Your opinion is requested as to whether or not Revised Code 325.20 requiring approval by

the Board of County Commissioners of attendance by county employees at association meetings or conventions, applies to employees of any or all of the following Boards:

"(1) The County Hospital Board existing by virtue of Chapter 339 of the Revised Code.

"(2) The Community Mental Health and Retardation Board existing by virtue of Chapter 340 of the Revised Code.

"(3) The County Board of Mental Retardation existing by virtue of Chapter 5126 of the Revised Code."

Initially, it should be established that where the expenditure of public money is involved, statutes authorizing such must be strictly construed. See *State v. McKelvey*, 12 Ohio St. 2d 92, 41 Ohio Op. 2d 372, 232 N.E. 2d 391 (1967). See also *State, ex rel. Leis v. Ferguson*, 149 Ohio St. 555 (1948). With respect to expenditures of money by boards of county commissioners, my predecessor stated in 1953 Op. Att'y Gen. No. 3063 at p. 464:

"In ascertaining the powers that may be exercised by a county or by any of its boards or commissions, we are not permitted to indulge, in any degree, the consideration of convenience or desirability, or even the goal of greatest efficiency. Counties are strictly creatures of the legislature, and the county commissioners and other officers of the county have only those powers which the legislature has seen fit to grant and those which are clearly implied and essential to the carrying out of the powers granted. 11 Ohio Jurisprudence, page 332. This rule is particularly emphasized in matters involving the expenditure of public money. In 11 Ohio Jurisprudence, page 573, it is said:

"The authority to act in financial transactions must be clear and distinctly granted, and if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county." (Emphasis added.)

The Section to which you refer in your letter of request, R.C. 325.20, states:

"Except as otherwise provided by law, no elected county officer, and no deputy or employee of the county, shall attend, at county expense, any association meeting or convention, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring it shall make application to the board in writing showing the necessity of such attendance and the probable costs to the county. If a majority of the members of the board

approved the application, such expenses shall be paid from the moneys appropriated to such office for traveling expenses."

(Emphasis added.)

The intent of R.C. 325.20 was expressed by my predecessor in 1962 Op. Att'y Gen. No. 3067, at p. 445:

"The intent was to require all personnel of the county who wish to travel at county expense to association meetings and conventions to first obtain authorization from the board of county commissioners."

The only exception to the above stated standard is provided in the first sentence of R.C. 305.20 which states: "Except as otherwise provided by law." Thus, unless there are statutory exceptions, employees of county boards must have the approval of the county commissioners before attending association meetings or conventions at county expense.

R.C. 339.03 provides the powers and duties of the County Hospital Board Trustees and reads in pertinent part:

"The trustees shall serve without compensation but shall be allowed their necessary and reasonable expenses incurred in the performance of their duties. Such expenses shall be paid out of the funds provided for such hospital. The board of county hospital trustees may employ such help as is necessary to perform its clerical work, superintend properly the construction of such hospital, and pay the expenses thereof, including the salary of the administrator as provided in section 339.06 of the Revised Code, out of the funds provided for such hospital."

Similarly, R.C. 5126.01 provides that board members of County Boards of Mental Retardation shall serve without compensation but "shall be reimbursed for necessary expenses incurred in the conduct of board business." R.C. 5126.03 provides the powers and duties of the county board of mental retardation and states in pertinent part:

"The county board of mental retardation, subject to the rules, regulations, and standards of the commissioner of mental retardation shall:

"(A) Administer and supervise facilities, programs, and services established under section 5127.01 of the Revised Code and exercise such powers and duties as prescribed by the commissioner;

"(B) Submit an annual report of its work and expenditures, pursuant to section 5127.01 of the Revised Code, to the commissioner and to the board of county commissioners at the close of the fiscal year and at such other time as may be requested;

"(C) Employ such personnel and provide such services, facilities, transportation, and equipment as are necessary;

"(D) Provide such funds as are necessary for the operation of facilities, programs, and services established under section 5127.01 of the Revised Code."

While the statutes pertaining to County Hospital Boards and County Mental Retardation Boards appear to allow board members to attend conferences necessarily incurred in the performance of their duties without prior county commissioner approval, such is not the case for employees of these two boards. Neither R.C. Chapter 339 nor R.C. Chapter 5126 provide express or implied power which would authorize their respective boards to usurp the powers of the Board of County Commissioners as provided in R.C. 325.20. That, of course, is not to say that it would be improper for the county commissioners to approve requests that such employees attend conferences.

With respect to Community Mental Health and Retardation Boards established under R.C. 340.02, however, a different conclusion is reached as to their employees. I concluded in 1975 Op. Att'y Gen No. 75-014 that joint county boards are not under the operational control of the county commissioners. In that Opinion, I stated:

"Similarly, a joint county community mental health and retardation district is neither a subdivision nor subordinate department of any of the counties established by joint action of several counties which operate subject to the rules and regulations of the Director of the State Board of Mental Health and Mental Retardation. It follows that a community mental health and retardation board, which serves more than one county is not a county board of any of the participating counties and is not entitled to legal counsel from the prosecuting attorneys of such counties under R.C. 309.09."

It is apparent from the foregoing that such joint community boards do not need the approval of the board of county commissioners before authorizing conference attendance by their employees.

In regard to single community boards, I direct your attention to 1975 Op. Att'y Gen. No. 75-084, wherein the third branch of the syllabus states:

"3. Where a single county community mental health and retardation board determines that attendance of its members or employees at a business conference will be in furtherance of the board's duties, no county commissioner approval for attendance is required."

Based upon these prior opinions, then, I conclude that neither the board members nor the employees of a Community Mental Health and Retardation Board are required to obtain approval of the county commissioners for attendance at conferences which these community boards determine appropriate.

Therefore, in specific answer to your request, it is my opinion and you are so advised that R.C. 325.20, requiring approval by the Board of County Commissioners before county employees may attend association meetings or conventions, applies to employees of County Hospital Boards which are established pursuant to R.C. Chapter 339 and County Boards of Mental Retardation which are established pursuant to R.C. Chapter 5126, but does not apply to employees of Community Mental Health and Retardation Boards which are established pursuant to R.C. Chapter 340.