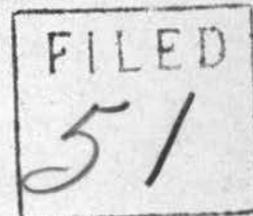


COUNTY HOSPITALS: Trustees of County Hospital formed under provisions of Article 4, Chapter 126, R. S. Mo. 1939, as amended Laws 1945, cannot bring suit or be sued as such but actions pertaining to such hospitals must be brought in the name of the real party in interest-the County.

October 27, 1948



Mr. Howard B. Lang  
Prosecuting Attorney, Boone County  
Columbia, Missouri

11-16

Dear Sir:

This will acknowledge receipt of your letter of September 27, 1948, in which you request an opinion of this department. Omitting caption and signatures, this request was as follows:

"The Boone County Hospital trustees have employed a local attorney to represent them in the collection of outstanding claims for hospital services. He has requested me to obtain an opinion from your office as to whether or not the trustees of the hospital are authorized to sue and be sued as such. This attorney takes the position that the hospital is a division of county government and that he is, therefore, entitled to request through me an opinion as to whether suit can be maintained in the name of the trustees.

"Your opinion in this matter would be appreciated."

Although your letter does not state, we assume that your hospital was organized under and by virtue of Article 4, Chapter 126, (Section 15,192 to 15,209) of the Revised Statutes of Missouri, 1939, as amended Laws 1945, page 983 and 1947, page 323. Section 15,194, Laws Mo. 1947, page 323, R. S. Mo. 1939, authorizes the County Court to appoint Trustees for the County Hospital, and provides for their term of office.

It appears from a reading of the aforesaid Article 4, and amendments thereto, that the Board of Trustees, is administrative body who have the power to administer the affairs of the hospital. However, the real party in interest, in the event of a legal action, is the county and not the Board of Trustees. In fact Section 15,204 of the Revised Statutes provides that the title to any gift or donations of money, personal property or real estate for the benefit of a county hospital shall be in the county.

In view of the fact that the Board of Trustees is merely an administrative body and not the real party in interest, it would not have the right to sue nor could it be sued as such. Section 847.11 of the Missouri Revised Statutes Annotated provides as follows:

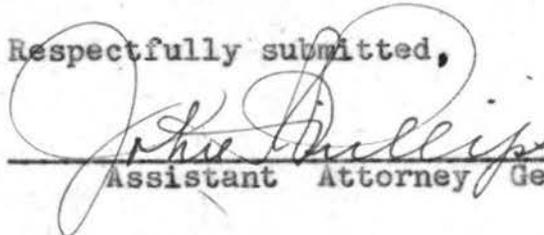
"Every action shall be prosecuted in the name of the real party in interest, but an executor, administrator, guardian, curator, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name in such representative capacity without joining with him the party for whose benefit the action is brought; and when a statute so provides, an action for the use or benefit of another shall be brought in the name of the State of Missouri."

Since the Board of Trustees are not the real party in interest in any action brought for the benefit of a county hospital and since the statutes of Missouri provide that the real party in interest must prosecute all actions, the Board of Trustees of a county hospital can not sue or be sued as such.

#### CONCLUSION.

It is therefore the opinion of this department that the Board of Trustees of a county hospital organized under the provisions of Article 4 of Chapter 126 R.S. Mo. 1939 can not be sued nor can they sue as such, but any action pertaining to such type of hospital must be brought in the name of the county.

Respectfully submitted,

  
Assistant Attorney General.

Approved:

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J.E. TAYLOR, 9/13  
Attorney General.

JSP/pw