

OPINION 59

OFFICIAL OPINION NO. 59

August 20, 1952.

Honorable L. E. Burney,  
State Health Commissioner,  
Indiana State Board of Health,  
Indianapolis, Indiana.

Dear Sir:

I have your request for an Official Opinion which reads as follows:

“The Morgan County Memorial Hospital was duly established in 1918 under the provisions of Chapter 144 of the Acts of 1917.

“The present hospital building was constructed shortly thereafter by building an addition to an existent dwelling and is located near the center of the City of Martinsville and is in a highly congested district and has been in continuous existence since its establishment. At the present time it is very apparent that its facilities are outgrown and additional facilities are needed. The present structure has been subject to criticism from the Division of Hospital and Institutional Services of the State Board of Health of Indiana, due to the fact that the existing facilities do not meet the hospital needs of this community.

“The hospital now has a twenty-seven bed capacity, three beds in the newer addition and twenty-four in the older part, which was formerly a dwelling. The State Fire Marshal has advised that this part of the hospital is non-fire proof; that the doors are inadequate; the electric wiring should be replaced and at present the hospital is overcrowded. At times patients are placed in hallways and there are not facilities at times for the handling of emergency and accident cases. It has no provision for the segregation of patients; medical and surgical patients are placed together and obstetrical cases are often placed with other patients. The storage space is entirely inadequate and the ad-

ministrative area is not sufficient to permit ordinary management of the administration. The laboratory space is very inadequate.

“In view of this situation, the Board of Commissioners of Morgan County has available, at no cost to the county, a new building site adjacent to the City of Martinsville, which is now a part of the County Farm and is an adequate site for the proposed new building for the hospital.

“In view of the need of additional hospital facilities in the City of Martinsville, the county is considering the construction of additional hospital facilities at an estimated cost of \$700,000. A question has arisen as to the necessary proceedings to be taken by the Board of County Commissioners or the Board of Trustees of said hospital in order to issue bonds to pay for this construction.

“Upon the above stated facts I would appreciate an Official Opinion from you on the following questions:

“1. Would the construction of a new hospital building at a new site constitute the ‘establishment’ of a public hospital within the meaning of Chapter 144 of the Acts of 1917, as amended, or would the same merely constitute an addition or an enlargement of the hospital previously established pursuant to said Chapter 144 of the Acts of 1917?

“2. May a county operating an existing county hospital in conformity with the provisions of Chapter 144 of the Acts of 1917, as amended, issue bonds to finance the cost of construction of a new hospital building on a new site?

“It has been called to my attention that your Official Opinion, dated September 8, 1947, at page 264, presents closely analogous questions. Inasmuch as the Morgan County authorities do not care to take any steps in this matter until the above two questions are answered, I would greatly appreciate your opinion on this matter at your earliest convenience.”

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The opinion of the Attorney General to which you refer is Opinion No. 53 of 1947, same being 1947 O. A. G. 264. In that opinion substantially the same problem was presented in regard to another hospital as you now present in regard to the Morgan County Memorial Hospital. However, the hospital involved in the 1947 opinion was established pursuant to Chapter 275 of the Acts of 1913. There is a specific statute granting power to make additions to hospitals established under the 1913 Act, namely, Chapter 66 of Acts of 1947, same being Burns' 22-3241, 22-3242. You state the Morgan County Hospital is established under Chapter 144 of the Acts of 1917, same being Burns' 22-3215 *et seq.* A portion of Section 1 of that Act reads as follows:

“Whenever it shall be shown to the satisfaction of a board of county commissioners by the trustees provided for in section 2 (Sec. 22-3217) of this act, that the hospital erected under the provisions of this act has become inadequate and insufficient in size to properly carry out the purpose for which said hospital was erected, then, and in that event said board of commissioners shall issue an order authorizing the enlarging or the building of an addition to said hospital, and such board of commissioners is hereby authorized to issue and sell bonds of such county to provide funds to aid in the construction of such addition or enlargement as aforesaid, in like manner and under like regulations as the issuing and sale of bonds for the construction or improvement of other county buildings, except that said board of commissioners shall have the exclusive power to authorize the borrowing of money for this purpose, and to levy and collect taxes to pay and satisfy such bonds when they become due.”

This wording does not materially vary from the wording of Chapter 66 of the Acts of 1947 which was subject to construction in the 1947 Attorney General's Opinion. It is therefore my opinion that under the applicable statutes, a new hospital building at a new site would merely constitute an addition to an existing hospital pursuant to Chapter 144 of the Acts of 1917.

Inasmuch as Chapter 144 of the Acts of 1917 specifically authorizes the issuance of bonds for an addition such as the one contemplated, it is my opinion that a County may, in conformity with the provisions of the 1917 Act, issue bonds to finance the cost of construction of an addition at a new site.

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OFFICIAL OPINION NO. 60

August 20, 1952.

Mr. John W. Crise, Director,  
Indiana Employment Security Division,  
141 South Meridian Street,  
Indianapolis 9, Indiana.

Dear Sir:

I have your request for an Official Opinion with which you sent a copy of a uniform agreement between the Commissioner of Motor Vehicles and Branch Managers appointed by the Commission and the copy of an Opinion by the Acting Deputy Commissioner of Internal Revenue in which you ask the following questions:

"1. What is the status or relationship of a branch manager, appointed by the Commissioner of Motor Vehicles under the provisions of Chapter 304 of the Act of 1945, to the State of Indiana?"

"2. What is the status or relationship of a branch manager's agents and assistants to the State of Indiana?"

"3. Is a branch office of the 'Bureau of Motor Vehicles' an 'Instrumentality of the State of Indiana'?"

The question of status of automobile license branch managers was considered in the case of *Wetzel v. McNutt et al.* (1933), 4 Fed. Supp. 233 by the United States District Court for the southern district of Indiana. In that case it was said:

"2. Public offices are mere agencies or trusts and not property as such. The nature of the relation of a