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OFFICIAL OPINION NO. 6

June 11, 1975

Mr. William A. Koch, President
Indiana Medical Distribution Loan Fund
c/o Student Financial Affairs
1100 W. Michigan Street
Indianapolis, Indiana 46202

Dear Mr. Koch:

This is in response to your request for my Official Opinion on the following questions:

1. Can a town or any group of individuals give money to the Indiana Medical Distribution Loan Fund for a specific medical school applicant?

2. If a town or group of individuals can and do give money for a specific medical student, can that student be required to go back to that specific community, from where the funds came, to get credit for the repayment of the funds at the rate of \$3,000.00 per year, as provided by the Indiana Medical Distribution Loan Fund Act?

3. If the funds are given, and the student upon graduation from medical school does not serve the particular community which has been designated for him by the donors of the money, but repays the amount instead, can the donors specify another individual as a recipient of the returned money?

ANALYSIS

An administrative agency has no common law or inherent powers. It has only that authority which is expressly granted to it by statute or those powers which necessarily are incident to the powers expressly granted. The Indiana Court of Appeals has held that "doubtful claims to power by governmental boards and agencies must be resolved against them." *Good v. Western Pulaski County School Corp.* (1965), 139 Ind. App. 567, 210 N.E. 2d 100.

Two statutes control my answer to your first question which is whether a town or any group of individuals can give money to the Indiana Medical Distribution Loan Fund for a specific medical school applicant. I.C. 1971, 25-22-13-8 states: "The board may accept gifts, donations, grants and subsidies for medical-distribution loan purposes." I.C. 1971, 25-22-13-9 states: "*The board shall receive and consider all applications for loans made by students. . . . The board shall make a careful and full investigation of . . . each applicant. . . . The board may grant to each applicant, deemed by the board to be qualified, a loan. . . .*" (Emphasis added).

Clearly, the board has the authority to accept gifts for medical-distribution loan purposes. However, the board alone has the responsibility of reviewing applications and of granting loans to eligible applicants. This responsibility cannot be delegated without statutory authority. Therefore, the board may accept only those gifts which do not infringe upon its statutory power to review applications and to determine which of the applicants are eligible to receive loans under this Act. Although the board may accept a gift for a specific medical student, it must make the determination that the student is qualified to receive a loan. It is my opinion then that a town or group of individuals can give money for a specific medical student, provided that the student has been deemed qualified by the board to participate in the Medical Distribution Loan Fund program.

The answer to your second question, as to whether the loan recipient can be required to go back to that specific community which was the source of the loan money in order to benefit from the repayment credit of \$3,000.00 per year provided by the Act, is found at I.C. 1971, 25-22-13-10, which reads, in part, as follows:

" . . . The loan shall be based upon the condition that, on or before six [6] months from the date the applicant completes one [1] year of internship (unless upon proper application, a later date is approved by the board) the applicant shall engage in the delivery of primary medical care in an area in need of physicians

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within the state *approved by the board* at the rate of one [1] year for each three thousand dollars [\$3,000.00] or proportional time for lesser amounts. This service by the applicant shall constitute repayment of the loan. (Emphasis added).

This statute creates a duty of the board to determine the areas in need of primary medical care. The board has no authority to relinquish this responsibility to any other group of individuals. For the Indiana Medical Distribution Loan Fund to accept a gift on the condition that the board require the subsequent student recipient to practice in an area selected by the donor would entail a contractual agreement. There is no statutory authority for the board to enter into contracts with the donor of a gift to the fund. The board has the authority to enter into contracts with only three specific groups: its own clerical and professional staff under I.C. 1971, 25-22-13-6; student recipients under I.C. 1971, 25-22-13-9; and medical schools under I.C. 1971, 25-22-13-12. Therefore, it is my official opinion that under present Indiana law, the Indiana Medical Distribution Loan Fund cannot accept gifts on the condition that the subsequent student recipient be required to practice medicine in an area selected by the donors.

Since it is my opinion that the Indiana Medical-Distribution Fund Board cannot relinquish to the donors of a gift to the fund its duty to determine the area of medical need, a response to your third and final question is unnecessary.

CONCLUSION

It is, therefore, my Official Opinion that a town or any group of individuals can give money to the Indiana Medical Distribution Loan Fund for a specific medical school applicant, provided that the recipient had already been deemed qualified, by the board, to participate in the program.

But the board cannot relinquish its statutory responsibility to determine the areas in need of primary medical care. Nor can the board delegate such duties to outsiders. Therefore,

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the Indiana Medical Distribution Loan Fund cannot accept gifts to which strings are tied requiring the student recipient to practice medicine later in an area selected by the outside donors.