Mr. B. B. McDonald
State Examiner
State Board of Accounts
912 State Office Building
Indianapolis 4, Indiana

Dear Mr. McDonald:

This is in response to your request for an Official Opinion concerning county hospitals operating pursuant to either the Acts of 1903, Ch. 86, as amended and found in Burns’ (1964 Repl.), Sections 22-3101 to 22-3110, or the Acts of 1917, Ch. 144, as amended, and found in Burns’ (1964 Repl.), Sections 22-3115, 22-3117 to 22-3118b, 22-3121 to 22-3140. Your questions are as follows:

1. Does the hospital board of trustees have authority to secure interest bearing promissory notes from patients who cannot pay their bills when they are discharged from the hospital?

2. Does the hospital board of trustees have authority to assess carrying charges against patients who cannot pay their bills when discharged from the hospital?”

County hospitals organized under either the 1903 or 1917 County Hospital Act have been the subject of several recent Official Opinions. The most recent Opinion, 1963 O. A. G., page 314, No. 59, stated that such hospitals had authority to assign current accounts receivable to a firm for collections. It was pointed out in this Opinion that:

“* * * it becomes rather obvious that the Legislature, in dealing with county hospitals, whether the same be organized under the Acts of 1903 or 1917, has left a broad discretion in the manner in which the hospital is to be operated * * *”

In order to fully answer your questions, it is first necessary to distinguish between “patients who cannot pay their bills
when they are discharged from the hospital” and “indigents.” While such hospitals may charge the former for services rendered, they may not charge or personally obligate the latter. In regard to county hospitals organized and operating under the 1903 Act, Burns’ 22-3106 and 22-3107, supra, provide:

22-3106

“Township trustees, as guardians of the poor in their respective townships of the county where such hospital shall be established, shall, when application is made to them for medical attention by the poor and indigent of their respective townships, investigate such application, and shall determine to the best of their ability whether such applicant can be better and more cheaply cared for in such hospital than at home. And if such trustee shall decide that such applicant should be admitted to said hospital, it shall be the duty of said trustee to make a certificate of such fact to the governing board of such hospital, and convey, or cause to be conveyed, said applicant to said hospital care, and such applicant shall upon the presentation of such certificate, be received and accepted by such hospital, and such applicant shall be under the care of the physician to the poor, as now provided by law. The cost of the hospital care of such patient to such township or county shall not exceed twenty dollars [$20] per week per patient: Provided, however, That the charge for hospital care for such applicants shall not exceed the actual cost of the same, said cost to be estimated by the matron or superintendent, and said estimate shall be made from the monthly reports of the superintendent or matron of said hospital to the governing board: and, Provided further, That in any county in which is operated a hospital under the provisions of this act for which no tax levy is assessed or any contribution made by the board of county commissioners for its operation and maintenance, such hospital may charge the same rate for such patients as is charged for other classes of patients. All receipts received from said county hospital operated in conjunction with the county poor asylum shall be paid into the
county general fund to be paid out only upon appropriation by the county council."

22-3107

"Patients may be received and accepted at said hospital for treatment and care for pay, in addition to the indigent ones heretofore provided for in this act, and all suitable provision and accommodation may be provided for such pay patients, including all necessary supplies, competent nurses and such other service, supplies and accommodations as are necessary to first-class hospital service, and such governing board is authorized to charge and collect from such pay patients such fees and charges as are customary in other first-class hospitals * * *" (Our emphasis)

Burns' 22-3131 and 22-3139, supra, make the following provisions applicable to the treatment of indigents by county hospitals organized and operating under the 1917 Act:

22-3131

"Every hospital established under this act shall be for the benefit of the inhabitants of such county and of any person falling sick or being injured or maimed within its limits; but every such inhabitant or person who is not an indigent shall pay to such board of hospital trustees, or such officer as it shall designate, for such county public hospital, a reasonable compensation for occupancy, nursing, care, medicine or attendants, according to the rules and regulations prescribed by said board, such hospital always being subject to such reasonable rules and regulations as said board may adopt in order to render the use of said hospital of the greatest benefit to the greatest number; and said board may exclude from the use of such hospital any and all inhabitants and persons who shall willfully violate such rules and regulations. And said board may extend the privileges and use of such hospital to persons residing outside of such county, upon such
terms and conditions as said board may, from time to
time, by its rules and regulations prescribe.” (Our
emphasis)

22-3139

“The board of hospital trustees shall have power to
determine whether or not patients presented at such
public hospital for treatment or surgical operations
are subjects for charity, and when such fact is duly
determined by said board, it is hereby made the duty
of the superintendent or matron of said hospital to
notify the township trustee of the township wherein
said charity patient resided, or wherein he or
she was found at the time of sickness or accident,
that such person has been admitted to said hospital
as a charity patient from said township, which said
notice may be either written or printed. It is hereby
made the duty of the township trustees, as overseers
of the poor in their respective townships of the county
where such hospital shall have been established, to pay
to the treasurer of the hospital board the cost of the
hospital care of such patient or patients as may have
been admitted to such hospital from their respective
townships: Provided, however, That the charge for
hospital care for such patient or patients shall not
exceed the actual cost of the same, said cost to be
estimated by the matron or superintendent, or some
one selected by them, which amount so due from said
township trustee shall be paid by said trustee when
the same shall be certified to by the matron or super-
tendent of such hospital.” (Our emphasis)

Duties of township trustees with respect to indigents in
need of medical aid are further defined in Acts of 1935, Ch.
116, Secs. 5 and 5a, as amended, and as found in Burns’ (1963
Supp.), Sections 52-148 and 52-148a. A full discussion of
these sections as they relate to indigent persons will be found

Hospitals organized under either act are specifically em-
powered to adopt bylaws, rules and regulations governing the
manner of their conduct and business affairs. While there is
no reported Indiana case specifically dealing with the manner of financial operations of county hospitals, there are several reported cases relating to municipal corporations or cities which are analogous. The principle laid down by these cases is that such bodies in conducting their business and financial affairs unless otherwise restrained by law are to be governed by rules of experience and judgment of good business practices in their dealings.


It is stated in 26 Am. Jur., Hospitals and Asylums, § 7, that:

"In so far as a hospital occupies the status of and functions as a private corporation, matters pertaining to the management and operation thereof are governed by the rules which are applied in the case of private corporations generally, except as modified by statute."

As to the management of private corporations, it is pointed out in 13 Am. Jur., Corporations, § 814, that:

"The authorities recognize the general power of a corporation, unless there is some provisions to the contrary in its charter or the general statutes, to receive securities for debts created in the usual course of business in the same manner as individuals. It has this power as an incident to that of entering into the contracts out of which the indebtedness arises, and this includes the power to take commercial paper payable to itself for indebtedness owing it."

The use of promissory notes and carrying charges are traditional methods used by businessmen in their commercial transactions. Therefore, in view of the above, I must conclude that the boards of trustees of county hospitals organized under either the 1903 or 1917 Act are authorized to secure interest bearing promissory notes and to assess carrying charges on patients, other than indigents, who cannot pay their bills when discharged from the hospital.