

Opinion No. 89-31

December 6, 1989

OPINION OF: HAL STRATTON, Attorney General

BY: Elizabeth A. Glenn, Assistant Attorney General

TO: Chloe Goin, Chairperson, Jal Hospital District, P.O. Drawer Z, Jal, New Mexico 88252

QUESTIONS

May the Jal Hospital District ("District") use its funds to establish a residential care unit in a vacant building owned by the District?

CONCLUSIONS

No.

ANALYSIS

The District is considering a proposal to establish a residential care unit in a vacant building that once housed the Jal Hospital to provide a residence for people who need assistance in daily living, including elderly people. As proposed, the unit probably would not have a professional staff or provide medical services, but would offer room, board and other nonmedical assistance to those who qualify. Based on our understanding that the residential care unit would function primarily as a residential facility, we conclude that it would not be a "hospital facility" qualified to receive District funds under the Special Hospital District Act, NMSA 1978, §§ 4-48A-1 to -18 (Repl. Pamp. 1984 and Cum. Supp. 1989).

Under the rules of statutory construction, we analyze the legislature's intent by looking at the whole statute. See *Allen v. McClellan*, 75 N.M. 400, 402, 405 P.2d 405, 406 (1965). In addition, we are required to construe words and phrases used in a statute according to the context and the approved usage of the language. NMSA 1978, § 12-2-2(A)(Repl. Pamp. 1988).

The Special Hospital District Act ("Act") authorizes special hospital districts "for the purpose of constructing, acquiring, operating and maintaining one or more public hospital facilities for the benefit of inhabitants of the district." NMSA 1978, § 4-48A-3. Each district is governed by a board of trustees having, among others, the power to:

A. acquire, construct, operate or maintain one or more hospital facilities in the special hospital district...;

B. receive and expend all funds accruing to the special hospital district pursuant to any provision of the ... Act through the sale of bonds or the levy of taxes; paid from any source on account of patients accommodated at the hospital; from any gift or bequest; or from any federal, state or private grant;

C. enter into contracts ... for the treatment of or the hospitalization of patients...;

C. enter into contracts ... for the treatment of or the hospitalization of patients...;

J. issue bonds ... for the construction, purchase, renovation, remodeling, equipping or re-equipping of hospital facilities under its control...;

K. charge for hospital services rendered; [and]

* * *

N. expend public money to recruit health care personnel to serve the sick of the special hospital district.

Id. § 4-48A-9. The board is authorized to issue general obligation bonds or revenue bonds to construct, acquire, equip, remodel or renovate hospital facilities, id. §§ 4-48A-12, 4-48A-20, and may impose an ad valorem tax on property in the district for current operations and maintenance of hospitals owned or operated by the district. Id. § 4-48-16.

The Act's provisions make it clear that funds of a special hospital district are to be used for acquiring, maintaining and operating hospitals or hospital facilities and related expenses. A "hospital facility," as defined in the Act, "includes a medical facility or an outpatient clinic or both." NMSA 1978, § 4-48A-2(D). This definition is consistent with the usual meaning ascribed to the term "hospital," i.e., "an institution where the ill or injured may receive medical, surgical or psychiatric treatment, nursing, food and lodging, etc. during illness." Webster's New Universal Unabridged Dictionary 879 (2d ed. 1983). See also *United States v. State of New Mexico*, 536 F.2d 1324, 1328 (10th Cir. 1986) (ordinary, everyday meaning of term "hospital" used in provisions of federal land grant for state miners' hospital connotes "an institution or place where sick or injured persons are given medical or surgical care"). The term "outpatient" generally refers to "a nonresident patient; one who is not an inmate of a hospital but receives medical attention from it." Id. at 1271. See also id. at 1314 (defining "patient" as "a person receiving care or treatment; especially a person under the care of a doctor").

Based on how the term is defined in the Act, we conclude that a hospital facility is one where people go to receive medical treatment or care. That the legislature intended to limit facilities funded by special hospital districts to those providing medical treatment also can be inferred from the provisions of the Act describing the powers of the board of trustees in terms of receiving funds paid "on account of patients accommodated at the hospital," entering into contracts for the "treatment of or the hospitalization of patients,"

charging for "hospital services" and recruiting "health care personnel to serve the sick."
NMSA 1978,§ 4-48A-9.

Our understanding is that the proposed residential care unit primarily would provide services, like room and board, to people needing help with routine daily activities. The unit would not be staffed by medical professionals nor would it operate as a nursing home or other facility providing continuous treatment or care to injured, sick or convalescing patients. See AG Op. No. 88-48 (1988) (distinguishing between nursing homes and intermediate care facilities for purposes of the licensing requirements of the Nursing Home Administrators Act). Cf. NMSA 1978, § 27-5-4 (Repl. Pamp. 1989) ("hospital" under Indigent Hospital Claims Act includes general or limited hospitals and nursing homes). It does not appear, therefore, that the unit would be providing the kind of services typically associated with hospitals, medical facilities or outpatient clinics. Accordingly, although it would provide a worthwhile service, the unit would not be a "hospital facility" appropriate for funding by the Jal Hospital District.

ATTORNEY GENERAL

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