

CHAPTER 376**HOSPITALS, SANATORIUMS, NURSING HOMES****HOSPITALS****376.01 ACQUISITION OF LAND FOR COUNTY HOSPITAL**

The provisions of MSA, Section 471.59 are valid and constitutional. *Kaufman v Swift County*, 225 M 169, 30 NW(2d) 34.

No one having been misled to their prejudice, the submission by the county auditor, on the same ballot, of question of whether to erect hospital building jointly with the city, and question whether to sell bonds to defray the cost, although not in strict compliance with the statute, did not invalidate the election. *Kaufman v Swift County*, 225 M 169, 30 NW(2d) 34.

Where a person afflicted with tuberculosis is admitted to a county sanatorium under the statute authorizing the health officer to report to the county board any person whom he considers a menace, the county in which the patient resides is responsible for the cost of treatment, as against the contention that the community where the act of commitment takes place, and the county in which it is located, are responsible, irrespective of residence of the patient. *County of Hennepin v County of Houston*, 229 M 418, 39 NW(2d) 858.

A community hospital association may renew its corporate existence under Laws 1951, Chapter 437. OAG May 16, 1951 (102-1).

A county hospital constructed under the provisions of section 376.01 and operated under a board of poor and hospital commissioners pursuant to Laws 1931, Chapter 60, are engaged in a proprietary function and liable for the negligent acts of their hospital agents or employees, and the county may expend funds for insurance to indemnify against damages caused by the negligent or tortious acts of its hospital agents or employees. OAG July 8, 1948 (125-A-28); OAG Dec. 20, 1948 (125-A-28).

When a county is engaged in the performance of a governmental function through its officers, agents and employees, no liability results to the county by reason of the negligence of or torts committed by those officers, agents, or employees in the performance of a governmental function. There are instances where the county might be held liable for the negligence of its employees. Whether the county may expend funds for insurance to indemnify against damages caused by the negligence or torts committed by county employees is a question of fact and depends upon whether liability on the part of the county results from such negligence or torts. OAG Dec. 20, 1948 (125-A-28).

Whether the executive secretary of the county welfare board may at the same time be a member of the hospital board depends upon compatibility or incompatibility as established by the facts in the individual case. OAG Jan. 4, 1952 (358-A).

Where the cost of a hospital will be in excess of the amount previously authorized by the voters, the question should be resubmitted and may be submitted at a special election. The authority of the county board to accept gifts is limited to a gift of real estate. OAG April 5, 1948 (1001-B).

A county is authorized to acquire lands to construct, maintain, and operate a county hospital, and villages having a population of more than 1,000 and less than 20,000 may own and operate hospitals; and under the provisions of section 471.59 to own and govern. Bodies may jointly exercise powers common to the contracting parties. If under such provisions a jointly-owned and operated hospital is constructed and operated upon a sale of the jointly-owned hospital, proper distribution

MINNESOTA STATUTES 1953 ANNOTATIONS

1021

HOSPITALS, SANATORIUMS, NURSING HOMES 376.04

of the net proceeds of the sale should be on the ratio of a joint contribution, and a contract between the parties to that effect will be valid and binding. OAG July 20, 1948 (1001-B).

A county may acquire land and buildings within the county for hospital purposes but is not authorized to purchase property beyond its boundaries. OAG Sept. 2, 1948 (1001-B).

A county has authority to issue bonds for county hospital purposes and may operate the same as a county hospital; or it may lease and let unto a responsible hospital association such grounds and buildings. There is no authority for the county to issue bonds for hospital purposes and turn the proceeds of the bond issue over to a private nonprofit charitable corporation for the purpose of constructing a hospital. OAG May 29, 1951 (1001-B).

The county board may accept a gift of land with buildings thereon and equipment therein for hospital purposes. OAG Aug. 4, 1952 (1001-B).

If a county has erected and owns a hospital, it may lease it to any responsible hospital association. The board determines the responsibility. OAG Feb. 18, 1953 (1001-B).

A county board may accept a gift of land in the county for hospital purposes for patients other than insane. Land offered to the county permitting the county to sell the land, realize money therefrom and use the money for hospital purposes on condition that at no time in the future will the hospital be leased to a hospital association, is not a valid gift. The county, under section 376.06, may lease its property for hospital purposes to a hospital association, and the board has no authority to bargain away its powers. The condition attached to the gift invalidates the gift. OAG March 12, 1953 (1001-B).

376.03 QUESTION SUBMITTED TO VOTERS

Where the amount authorized by the voters was insufficient to cover the cost of the proposed hospital the question may be resubmitted at a special election. OAG April 5, 1948 (1001-B).

A county may acquire land and buildings within the county for hospital purposes but is not authorized to purchase property beyond its boundaries. OAG Sept. 2, 1948 (1001-B).

376.04 QUESTION, HOW SUBMITTED

No one having been misled to their prejudice, the submission by the county auditor, on the same ballot, of question of whether to erect hospital building jointly with the city, and question whether to sell bonds to defray the cost, although not in strict compliance with the statute did not invalidate the election. *Kaufman v Swift County*, 225 M 169, 30 NW(2d) 34.

In constructing a hospital under the provisions of sections 376.01 to 376.06, the county is limited to the amount authorized by the electors under the provisions of section 376.04. OAG June 7, 1949 (1001-B).

In constructing a hospital under provisions of sections 376.01 to 376.07, the county is limited with the amount authorized by the electors. Net cost to the county means that portion of the total cost chargeable to or assumed by the county excluding from the total cost contributions from the federal government or other agencies. OAG May 18, 1949 (1001-B).

A resolution of the county board for the erection of a county hospital must state the anticipated cost of the structure and equipment irrespective from the sources from which the money comes to pay for such costs. OAG Sept. 2, 1952 (1001-B).

The construction of an addition to a county hospital under section 376.07 must first be authorized by a vote of the people as required by section 376.04. OAG Sept. 26, 1952 (1001-B).

MINNESOTA STATUTES 1953 ANNOTATIONS

376.06 HOSPITALS, SANATORIUMS, NURSING HOMES

1022

376.06 OPERATION, MANAGEMENT

HISTORY. 1913 c 392 s 6; MS 1927 s 682; 1951 c 326 s 1.

A county board operating a hospital has authority to rent quarters for county nurses. OAG Dec. 21, 1948 (1001-B).

Even under the 1951 amendment, a county may not turn over the proceeds of a bond issued for the acquisition of a county hospital to a nonprofit charitable corporation for the purpose of constructing and operating a county hospital. OAG May 29, 1951 (1001-B).

The county auditor has no authority to issue warrants of the county in payment of claims incurred by the hospital board without the approval of such claims by the board of county commissioners. OAG July 25, 1951 (1001-B).

A county cannot accept a gift of property under restrictions and conditions if such restrictions and conditions in any way bargain away the powers of the board. OAG March 30, 1953 (1001-B).

The corporate powers of counties are confined to such powers as are expressly granted or necessary to the exercise of those which are granted, and the county commissioners are confined to the duties and powers directly conferred, or in like manner clearly implied. The general power of a county to make contracts is confined to the property and business of the county; and the uses to which a county may put real estate are to provide a suitable courthouse, jail, offices, and other necessary buildings. It may not erect buildings for the use of other municipal corporations, or for any third party. It may sell and convey real estate not necessary to its use, but it may not improve it for the accommodation of third parties, nor enter into contracts by which it shall bind itself to hold it for the benefit of third parties. Such objects are foreign to the purposes for which counties are organized, and, if permitted, would open the door to entanglements and abuses against which the public should be, and is, by law protected. OAG April 10, 1953 (1001-B).

The county board is without authority to pay compensation to or reimburse hospital board members for attendance at meetings or for traveling expenses. OAG June 2, 1953 (1001-B).

376.07 ADDITION TO COUNTY HOSPITAL

Where the voters authorized construction of an addition to a county hospital but the county board ascertained that it could not be constructed within the sum authorized, the board may be authorized to spend an additional amount in either of the two ways specified in section 376.07. OAG Sept. 8, 1950 (1001-B).

376.08 APPROPRIATION BY CERTAIN COUNTIES FOR HOSPITALS

HISTORY. 1909 c 210 s 1, 2; 1915 c 326 s 1, 2; MS 1927 s 684, 685; 1949 c 419 s 1.

The county board may appropriate moneys under the provisions of section 376.08 to more than one hospital in the county provided the total appropriation in any one year does not exceed \$65,000. OAG Aug. 11, 1949 (125-B-17).

The increased cost of the construction of a county hospital when necessary because of minor changes in plans and specifications, may be paid by the county in addition to the original contract price, and the money required therefor may be appropriated from the general revenue fund. OAG Sept. 20, 1950 (1001-B).

376.10-376.17 Repealed, 1913 c 500 s 14; 1949 c 283 s 1.

SANATORIUMS

376.18 RESIDENCE OF TUBERCULOSIS PATIENTS; COST OF CARE

Where a person afflicted with tuberculosis is admitted to a county sanatorium under a statute authorizing the health officer to report to the county board any per-

MINNESOTA STATUTES 1953 ANNOTATIONS

1023

HOSPITALS, SANATORIUMS, NURSING HOMES 376.28

son whom he considers a menace because afflicted with tuberculosis, the county in which the patient resides is responsible for the cost of treatment and not the community where the act of commitment takes place. *County of Hennepin v County of Houston*, 229 M 418, 39 NW(2d) 858.

Where a person is committed to the county tuberculosis sanatorium as a public health menace charges must be paid by the municipality whose board of health caused the commitment, but after the patient's release and if his relatives cannot pay, the county of the patient's residence is liable. OAG Feb. 27, 1947 (556-A-2).

376.19 ONE MILL LEVY FOR TUBERCULOSIS SANATORIUMS

HISTORY. 1919 c 78 s 1; 1949 c 116 s 1.

The people by vote may levy an amount greater than one mill and bonds may be issued in addition to the tax levy. OAG April 19, 1948 (556-A-10).

376.20 MAINTENANCE CHARGE; LIMITATION

HISTORY. 1919 c 78 s 2; 1943 c 140 s 1; 1945 c 142 s 1; 1949 c 29 s 1.

376.26 COUNTY ATTORNEYS LEGAL ADVISERS OF SANATORIUM COMMISSIONS

County attorney must serve without additional compensation in bringing a civil action for collection of a debt due a joint tuberculosis sanatorium. OAG April 14, 1947 (121-B-19).

The service of the county attorney in proceedings involving a sanatorium commission is rendered without additional compensation, and there is no statutory authority to employ an associate counsel to assist the county attorney. OAG March 17, 1953 (121-B-19).

376.27 Renumbered 376.523.

376.28 TUBERCULOSIS SANATORIUMS

Where a person afflicted with tuberculosis is admitted to a county sanatorium, under section 144.44, the county in which the patient resides is responsible for the cost of treatment as against the contention that community where the act of commitment takes place, and the county in which it is located is responsible, irrespective of the residence of the plaintiff. *County of Hennepin v County of Houston*, 229 M 418, 39 NW(2d) 858.

The counties of Nobles, Rock, Murray, Lincoln, Jackson, Pipestone, Cottonwood, and Lyon are tenants in common of property being used as the S.W. Minnesota Sanatorium taking care of tuberculosis patients of the area. The property is situated within the city of Worthington, which recently paved a public highway laid out through the above described real estate. The city of Worthington may properly assess the cost of the pavement to the above mentioned counties who are named as owners thereof. OAG Aug. 16, 1951 (406-C).

If a county is able to collect from a relative of an indigent non-resident patient in a county tubercular sanatorium, who has been admitted under authority of section 376.33, such collection does not relieve the state from payment of \$7.50 per week toward the support of the patient. OAG July 5, 1950 (556-A-8).

A county sanatorium established under section 376.28 et seq, and discontinued under section 376.54, may be converted into a nursing home under Laws 1951, Chapter 610, coded as sections 376.55 to 376.66. OAG Sept. 10, 1951 (556-A-5).

Where no vested rights are violated, county boards may rescind their resolutions which terminated functions of a sanatorium commission. OAG Nov. 20, 1951 (556-A-5).

MINNESOTA STATUTES 1953 ANNOTATIONS

376.29 HOSPITALS, SANATORIUMS, NURSING HOMES

1024

376.29 SANATORIUM COMMISSION

A county tuberculosis sanatorium may, with the approval of the director of social welfare, be discontinued and thereafter the county may arrange for the care of patients by outside sanatoriums. OAG Dec. 19, 1950 (556-A-7).

Under-paid employees of county tuberculosis sanatoriums may have an increase in salary in consideration of services to be rendered in the future, but the superintendent may not pay bonuses in consideration of services rendered in the past. OAG Jan. 13, 1948 (556-A-9).

The county sanatorium commission of a group of four counties may with the approval of the director of the division of social welfare use any surplus of the tax levy made for the maintenance of the sanatorium for building, purchasing equipments, building additions, building cottages and making improvements and repairs which would include building a dwelling house on the sanatorium grounds for the use of the superintendent of the sanatorium. OAG Nov. 30, 1949 (556-A-10).

376.31 APPROPRIATION; BONDS; STATE CONTRIBUTIONS

HISTORY. 1913 c 500 s 4; 1915 c 270 s 4; 1921 c 218; 1949 c 731 s 1.

The state participates in the support of free patients in county tuberculosis sanatoriums to the extent of \$7.50 per week. OAG Jan. 10, 1951 (556-A).

Where counties jointly maintain a tuberculosis sanatorium and desire to discontinue and abandon it and board the patients elsewhere, the unexpended balance remaining at the time of abandonment in the maintenance fund should be divided proportionately between the counties, and appropriation made for the care and maintenance of poor persons afflicted with tuberculosis, including their care, in an outside sanatorium. OAG Dec. 19, 1951 (556-A-7).

376.32 MONTHLY REPORTS TO STATE AUDITOR

HISTORY. 1913 c 500 s 5; 1915 c 270 s 5; 1919 c 321 s 1; MS 1927 s 709.

376.33 CHARGES, FREE PATIENTS

HISTORY. 1913 c 500 s 6; 1939 c 197; 1941 c 163; 1949 c 731 s 2.

Where a person afflicted with tuberculosis is admitted to a county sanatorium under section 144.44, the county in which the patient resides is responsible for the cost of treatment as against the contention that the community where the act of commitment takes place, and the county in which it is located is responsible, irrespective of the residence of the plaintiff. County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858.

An individual, a resident of Crow Wing county, while a patient at the Deerwood sanatorium, a county sanatorium maintained by the counties of Crow Wing and Aitkin, for the care of tubercular patients, and unable to pay the charges and having no kindred liable therefor, cannot require the county to transfer her to the state sanatorium at Walker, or to any other sanatorium of her choice, as Crow Wing county would be required in case of such transfer to pay the expense of the care and treatment at the Walker sanatorium. OAG April 5, 1948 (556-A-1).

If a county is able to collect from a relative of an indigent nonresident patient in a county tubercular sanatorium, who has been admitted under the authority of section 376.33, such collection does not relieve the state from payment of \$7.50 per week toward the support of the patient. OAG July 5, 1950 (556-A-8).

376.34 TUBERCULOSIS SANATORIUMS; RESIDENTS; HOW ADMITTED

Where a person afflicted with tuberculosis is admitted to a county sanatorium under a statute authorizing the health officer to report to the county board any person whom he considers a menace because afflicted with tuberculosis, the county in which the patient resides is responsible for the cost of treatment, as against the con-

MINNESOTA STATUTES 1953 ANNOTATIONS

1025

HOSPITALS, SANATORIUMS, NURSING HOMES 376.50

tention that the community where the act of commitment takes place, and the county in which it is located, are responsible, irrespective of the residence of the patient. *County of Hennepin v County of Houston*, 229 M 418, 39 NW(2d) 858.

Eligibility for admission to county tuberculosis sanatorium does not depend upon citizenship. An alien if otherwise qualified may be admitted. OAG Jan. 18, 1950 (556-A-1).

On Nov. 15, 1949, while the family had its legal settlement in Ramsey county, a minor child was admitted to Ancker hospital as a tuberculosis patient. On June 7, 1950, the child was transferred to the Preventorium and while there the family on April 19, 1952, moved to Sibley county, where they still reside. The minor child was returned to her parents in Sibley county on July 12, 1953. On Sept. 14, 1953, she was taken to the Cannon Falls Mineral Springs sanatorium. Based on the above facts, when the father moved to Sibley county she became a resident of that county. Not having been a resident of Sibley county for one year immediately preceding the application exclusive of the time spent in the hospital or sanatorium, she is not eligible for care at the expense of Sibley county. As neither county is liable, the commissioner of public welfare should apply for admission of the child either to the state sanatorium for consumptives or to some county sanatorium in the state and pay for such care out of his appropriations for the maintenance of county sanatorium funds, as provided by section 251.02. OAG Oct. 23, 1953 (556-B-1).

376.35 GIFTS

Real property acquired for joint sanatorium purposes should be acquired in the name of the county in which the sanatorium is located. OAG May 15, 1951 (556-A-5).

376.40 DEFINITIONS

HISTORY. 1913 c 500 s 13; MS 1927 s 717; 1933 c 237.

376.44 Renumbered 376.44, subdivision 1.

376.45 Renumbered 376.44, subdivision 2.

376.46 Renumbered 376.44, subdivision 3.

376.47 Renumbered 376.44, subdivision 4.

376.48 Renumbered 376.44, subdivision 5.

376.49 TAX LIMITATION, SANATORIUM PURPOSES

HISTORY. 1939 c 15 s 1; 1941 c 203 s 1; 1943 c 268 s 1; 1951 c 313 s 1.

If there are not less than four nor more than six counties maintaining a joint tuberculosis sanatorium the annual county tax levy for such purposes shall not exceed four mills of the assessed valuation in the county and only three mills for maintenance. OAG April 19, 1948 (556-A-10).

376.50 TUBERCULOSIS, PREVENTING SPREAD OF

Where a person afflicted with tuberculosis is admitted to a county sanatorium, under section 144.44, the county in which the patient resides is responsible for the cost of treatment as against the contention that community where the act of commitment takes place, and the county in which it is located is responsible, irrespective of the residence of the plaintiff. *County of Hennepin v County of Houston*, 229 M 418, 39 NW(2d) 858.

The cost of a tuberculosis X-ray survey in a county is not payable out of county welfare funds; but the county board is authorized to appropriate money out of the general revenue fund to pay such expenses. OAG Sept. 22, 1950 (125-A-15).

MINNESOTA STATUTES 1953 ANNOTATIONS

376.51 HOSPITALS, SANATORIUMS, NURSING HOMES

1026

The county board where a poor person is afflicted with tuberculosis may, at the county expense, provide for the treatment of such resident of the county at either a public or private sanatorium, either within or without the state. OAG June 27, 1951 (556-A-7).

A county operating under the town system of poor relief is not liable for "after care" of a tubercular patient after discharge from the state sanatorium. OAG Oct. 10, 1949 (556-A-8).

376.51 COUNTY BOARD MAY AID SOCIETIES

HISTORY. 1927 c 223 s 1-3; MS 1927 s 726-1 to 726-3; 1929 c 228 s 1-3.

376.523 LICENSE FOR TUBERCULOSIS SANATORIUM; PESTHOUSE, HOSPITAL, OR DETENTION HOME IN A VILLAGE

HISTORY. 1923 c 237 s 1-3; MS 1927 s 702, 703, 704.

376.53 Renumbered 375.197.

376.54 DISCONTINUANCE OF SANATORIUM AND SALE OF PROPERTY

HISTORY. 1949 c 96 s 1.

A tuberculosis sanatorium owned by two or more counties may be sold or leased and the proceeds therefrom must be divided proportionately between the counties and the state according as contributions had been made. OAG April 6, 1951 (556-A-5).

Real property acquired for joint sanatorium purposes should be acquired in the name of the county in which the sanatorium is located. OAG May 15, 1951 (556-A-5).

A county tuberculosis sanatorium may, with the approval of the director of social welfare, be discontinued and thereafter the county may arrange for the care of patients by outside sanatoriums. OAG Dec. 19, 1950 (556-A-7).

NURSING HOMES

376.55 COUNTY NURSING HOME

HISTORY. 1951 c 610 s 1; 1953 c 248 s 1.

A purchase of real estate by a county must be for a public use. A county owning real estate with other counties as tenants in common may purchase the interest of the other counties if the purchase is in protection of its own interest in the property. Where one county deeds real estate to another county the public-bidding statute may be disregarded. This applies to county nursing homes. OAG Aug. 25, 1953 (125-A-41).

A county sanatorium which was established and afterwards discontinued under section 376.54 may be converted into a county nursing home under sections 376.55 to 376.66. OAG Sept. 10, 1951 (556-A-5).

The maintenance of a nursing home for the care and treatment of chronically ill and convalescent persons under the provisions of Laws 1951, Chapter 610, is a proprietary and not a governmental function. OAG June 5, 1952 (904).

Where a county acquires real estate on which there is a building for county nursing home purposes, the proposition must be submitted to a referendum vote of the county and a majority of the people voting on the question must approve the purpose. OAG Oct. 10, 1952 (904).

376.56 TAX LEVY

HISTORY. 1951 c 610 s 2.

MINNESOTA STATUTES 1953 ANNOTATIONS

1027

HOSPITALS, SANATORIUMS, NURSING HOMES 376.66

There is no statutory provision for the apportionment of the cost of the establishment, maintenance, and operation of a nursing home in any manner other than as provided in section 376.55. OAG Nov. 20, 1951 (556-A-5).

376.57 DETERMINATION TO ESTABLISH

HISTORY. 1951 c 610 s 3.

Under this section the only method of apportionment of the costs of the establishment, maintenance, and operation of a county nursing home is on the basis of proportion that the assessed valuation of one county bears to that of the other. OAG Nov. 20, 1951 (556-A-5).

376.58 SUPERVISION

HISTORY. 1951 c 610 s 4.

Section 376.58 specifies the manner in which the disbursements should be made by the county nursing home board. The law creates no revolving fund. The money can be lawfully disbursed only as set forth in section 376.58. OAG April 18, 1952 (904).

376.59 COUNTY BUILDING FUNDS

HISTORY. 1951 c 610 s 5.

376.60 BOARD OR EXECUTIVE COMMITTEE; POWERS, DUTIES

HISTORY. 1951 c 610 s 6.

376.61 PERSONS ADMISSIBLE

HISTORY. 1951 c 610 s 7.

376.62 RATES

HISTORY. 1951 c 610 s 8.

376.63 PLACING IN ANOTHER COUNTY

HISTORY. 1951 c 610 s 9.

376.64 PAYING PATIENTS

HISTORY. 1951 c 610 s 10.

376.65 REPORT

HISTORY. 1951 c 610 s 11.

376.66 RECORDS

HISTORY. 1951 c 610 s 12.