

CANCER HOSPITAL: The certification by a county court of a patient to the State Cancer Hospital continues until the patient is cured, is no longer in need of treatment by the hospital, or otherwise discharged, pursuant to Section 200.090 RSMo 1949. If, however, during the course of the disease, the patient moves his residence from one county to another, such removal extinguishes the obligation of the original certifying county, and certification by the new county of residence should be obtained. If a patient, having been discharged, removes his residence to a county other than the county originally certifying him for treatment, said patient may not again be admitted for treatment until properly certified by his new county of residence.



May 20, 1954

Honorable G. W. Meinershagen, M.D.
Acting Administrator
Ellis Fischel Cancer Hospital
Columbia, Missouri

Dear Doctor Meinershagen:

By letter of April 12, 1954, you requested an official opinion in the following manner:

"The law creating the State Cancer Hospital provides the manner in which a patient may apply for admission to the Hospital, how the judges of the county court of residents decide on eligibility of the patient to the Hospital, and how he is to be sent to the Hospital. The law sets forth the billing of the county court for each patient resident in the Hospital for any part of a month and the maximum amount of charge per patient per month.

"After admission to the Cancer Hospital, we routinely follow our patients to determine the status of the disease. If the cancer persists, further treatment may be necessary and is provided if feasible. The follow-up of the patient is done in the clinic and the patient may be admitted to the Hospital from the clinic at any time. This follow-up period may last from five to ten years. Our Social Service Department, who handles the clinic admissions

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and follow-up attempts to determine the latest addresses of all patients who were on our active follow-up list.

"When these patients move from one county to another, the Social Service Department gets a new certification from the new county of residence. Despite our efforts to keep current data on patients, we have them come in to find that they have not lived in the county of original certification for two years or more and do not have time to seek new certification from the new county of residence. The new county of residence may not want to certify this person although we consider the financial of the patient may be the same as when certified from the other county. We occasionally close a case and reopen it on application of the patient with a new disease or an extension of the old disease.

"We have attempted in the past to be sure that there is a current certification from the county of residence of the patient if at any time the residence has been changed. We wonder if this re-certification is necessary and would like to pose three questions for your consideration.

"1. When a patient is certified for admission from a county to the Cancer Hospital, how long is this certification valid? If the patient continues to live in the same county of original certification, does closing the case and reopening it constitute reason for re-certification?

"2. How long does the certification from the original county of residence stand if the patient moves from the original county to another county, that is, does the second county assume the responsibility of the first county or does the certification stand only for only a certain number of months or years from the time they moved from the original county?

"3. When a patient moves from one county to another and several years elapse, what is our

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position if neither county will certify this patient to the Hospital?

"In relation to this last question, it has been our philosophy that once a patient is certified for treatment, that they are our patient until the disease is cured and if their financial status remains the same, we might care for them for life if they have cancer of another site."

Provision for entrance to the State Cancer Hospital is named by Section 200.080, RSMo, Cum. Supp., 1953:

"1. Whenever the existence of a case described in section 200.070 shall come to the notice of the sheriff, health officer, public health nurse, peace officer, or any other public officer, or any physician or surgeon, it shall be his duty to, and any other person may, file with the judges of the county court of the county of the legal residence of such person, or if such person be a resident of the city of St. Louis, then with the corresponding authority of said city, an application for the treatment of such person at the state cancer hospital. Such application shall be made on blanks to be furnished by the state cancer hospital and shall contain a full statement of the financial situation of the person sought to be treated and a general statement of his physical condition.

"2. Upon the filing of such application, the judges of the county court shall make investigation in such manner as they shall deem advisable, and it shall be the duty of any public official of any county, city, town, village or ward of the residence of the person to be treated to supply the judges of the county court on request thereof all information within their knowledge relative to the financial situation of the person sought to be treated. If, after such investigation, said judges of the county court shall be satisfied that the person on whose behalf the application is made is not

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financially able to provide himself with such treatment, or in case of a minor, that his parent, guardian or trustee, or the person having legal custody over him or legally responsible for his support or maintenance is not financially able to provide such treatment, then said judges shall appoint a physician of said county whose duty it shall be to personally make an examination of the person on whose behalf said application for treatment has been filed.

"3. Said physician shall thereupon make and file with the judges of the county court a report in writing, setting forth the nature and history of the case, and such other information as will be likely to aid in the medical or surgical treatment, especially tumors and diseases of a cancerous nature, affecting said person and shall also state in said report whether or not, in his opinion, the condition of such person can probably be alleviated. The report of said physician shall be made within such time as the court may direct, and upon blanks, to be furnished by the administrator of the state cancer hospital for that purpose. Said report shall include any information within the knowledge of said physician relative to the financial condition of the person proposed to be treated. The physician appointed to make said examination, unless he is already a salaried officer of the state or some political sub-division, thereof or municipal corporation therein, shall receive the sum of five dollars for making said examination and in any case shall receive his actual and necessary expenses; which fee and expenses shall be paid by the county of residence of the patient; and it shall be the duty of the county court of such county to provide for such payment.

"4. If, upon filing said report, the judges of the county court shall be satisfied that

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that the patient is one who should be treated at the state cancer hospital and that the person to be treated, or his parent, guardian, trustee or other person having legal custody of his person in case of a minor, is not financially able to provide such person with proper treatment, the judges of the county court shall enter an order finding such facts. In case the court is not satisfied they may take additional testimony or make such further investigation as to them shall seem proper.

"5. Upon the entry of the order of the judges of the county court, approving said application they shall communicate with the administrator of the state cancer hospital and ascertain whether or not the applicant can be received as a patient. If the state cancer hospital can receive such applicant, the court shall thereupon certify their approval of such application to said hospital. In cases coming to the attention of the county judges where proper and timely diagnosis may not be had locally, authority is hereby given to said judges to make proper and necessary orders sending the patient to state cancer hospital for examination; the necessary expense incident thereto to be chargeable to the county of residence of the patient. A copy of each application and a copy of the report of the physician and court order in each case shall be sent to the administrator of said hospital."

The purpose of the State Cancer Hospital is stated by Section 200.070 RSMo 1949:

"The state cancer hospital shall be primarily and principally designed for the care and treatment of indigent persons afflicted with cancer, such

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scientific research as will promote the welfare of indigent patients committed to its care and for the care of legal residents of Missouri only. Where such patient is unable financially to secure such care or, in the case of a minor, where the parent, guardian, trustee or other person having lawful custody of such minor's person, as the case may be, is unable financially to secure such care the state cancer hospital is hereby designated as a place of treatment for such persons."

Turning to your first question, it is our opinion that a certification by the county court is not made for any particular length of time, but instead is valid until the disease is cured, or for so long as treatment by the hospital is needed, or until the patient is otherwise discharged pursuant to Section 200.090 RSMo 1949. By "closing the case" we presume you mean that the patient is discharged pursuant to said Section 200.090. That Section reads as follows:

"Whenever, in the opinion of the administrator of the state cancer hospital, any patient should be discharged therefrom as cured, or as no longer needing treatment, or for the reason that further treatment cannot benefit his case, or for any other reason, said administrator shall discharge said patient. If the patient is unable to return to his place of residence alone, said administrator shall appoint some suitable person to accompany said patient from said hospital to his place of residence. Such person shall receive his actual and necessary expenses, if not a salaried officer of the state or any political subdivision thereof. The traveling expenses of all patients and expenses of such person appointed to accompany such patient shall be part of the legitimate expenses of caring for such patients in the hospital and as such included in the monthly statement to the county court of the county of the residence of the patient."

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If so, we believe that act discharges the obligation of the certifying county, and a new certification by the county court is necessary before the patient can be readmitted.

In answer to your second question, we believe that if the patient changes his residence from the county originally certifying him, that county is relieved of its obligation under the certification. The new county of residence of the patient should be required to certify the patient as if the patient were to be originally admitted from the second county. Having determined that the removal by a patient of his residence to a county other than the one originally certifying him necessitates a certification by the county court of the new county of residence, we turn to your third question as to the position of the hospital if the new county refuses to certify the patient. The Legislature has prescribed a detailed procedure for admission of patients to the hospital, and it is our opinion that since the Legislature has so acted, the maxim of "Expressio unius est exclusio alteritius" must be invoked. That maxim is a fundamental rule in the construction of statutes, and means that the express mention of one thing implies the exclusion of another. An application of this rule was made in Dougherty vs. Excelsior Springs, 110 Mo. App. 623, 626, 85 S.W. 112, 113. In that case an attorney sued to recover fees for legal services to defendant city in a damage suit. The statute permitted the mayor and board of aldermen to appoint counsel in addition to the regular city attorney, but plaintiff was appointed by the mayor only. The Kansas City Court of Appeals disallowed the claim, saying l.c. 626:

"The law is well settled that when special powers are conferred, or where a special method is prescribed for the exercise and execution of a power, this brings the exercise of such power within the provision of the maxim expressio unius, etc., and by necessary implication forbids and renders nugatory the doing of the thing specified except in the particular way pointed out. (Kolkmeier vs. Jefferson City, 75 Mo. App. l.c. 683; McKissick v. Mt. Pleasant Twp., 48 Mo. App. 416; Heidelberg v. St. Francis Co., 100 Mo. 74.) * * * * *

Therefore, we conclude that the Legislature has provided the exclusive method for admission of patients to the hospital,

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and the hospital can admit only those persons properly certified under the provisions of Chapter 200, RSMo 1949.

CONCLUSION

It is, therefore, the opinion of this office that the certification by a county court of a patient to the State Cancer Hospital continues until the patient is cured, is no longer in need of treatment by the hospital, or otherwise discharged pursuant to Section 200.090 RSMo, 1949. If, however, during the course of the disease, the patient moves his residence from one county to another, such removal extinguishes the obligation of the original certifying county, and certification by the new county of residence should be obtained. If a patient, having been discharged, removes his residence to a county other than the county originally certifying him for treatment, said patient may not again be admitted for treatment until properly certified by his new county of residence.

This opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

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