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FILE NO. S-1243

MENTAL HEALTH:
Authority of a Mental
Health Board to Borrow Funds

Honorable Peter J. Woods
State's Attorney
Ogle County
Courthouse
Oregon, Illinois 61061

Dear Mr. Woods:

I have your letter wherein you ask the following questions:

- "1. Is the Mental Health Board authorized to borrow funds?
2. Can the Mental Health Board borrow such funds at the government rate?"

For the reasons hereinafter stated, it is my opinion that a mental health board is not authorized to borrow funds. Because a mental health board cannot borrow funds, it will

Honorable Peter J. Woods - 2.

not be necessary for me to answer your second question.

The powers of statutory officers are limited to those expressly conferred by statute or necessarily implied from the powers so conferred. (People ex rel. Board of Trustees of the University of Illinois et al. v. Barrett (1943), 382 Ill. 321 at 345; McKenzie v. McIntosh (1964), 50 Ill. App. 2d 370 at 377.) Therefore, the power to borrow funds must be found among or implied from the powers of a mental health board. No provision of the Community Mental Health Act (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 300.1 et seq.), however, either expressly or impliedly authorizes a mental health board to borrow funds. Rather, a board's sources of funds are taxes levied by the unit of government which created the board, grants from the Federal and State governments and gifts from private individuals. (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 303e and 304.)

Section 3e(f) of the Act (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 303e(f) limits the board's expenditures in the following language:

" * * * It shall:

* * *

(f) Within amounts appropriated therefor,

Honorable Peter J. Woods - 3.

execute such programs and maintain such services and facilities as may be authorized under such appropriations, including amounts appropriated under bond issues, if any;

* * *

"

(Emphasis added.)

The fact that the board's expenditures are limited to amounts within appropriated sums is another indication that the board has no authority to borrow funds.

Sections 4 and 5 of the Act (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 304 and 305) authorize a tax levy to provide funds for the use of a mental health board, and section 10 (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 310) authorizes the issuance of bonds for the improvement of mental health facilities, but the governing body of the unit which created the mental health board is the body which levies the tax or issues the bonds. The function of a board in the area of funding is merely to prepare an annual budget for submission to the governing body of the unit of government which created the board. (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 303f.) It is the governing body which appropriates funds for the use of the board.

As I advised in opinion No. S-180 (1970 Ill. Att'y.

Honorable Peter J. Woods - 4.

Gen. Op. 111), mental health boards are agencies of the unit of government which created them. In the present situation, the Ogle County Mental Health Board is an agency of Ogle County. As such, the board must look to the county board of Ogle County for additional funding should its funds from authorized sources be inadequate.

Very truly yours,

A T T O R N E Y G E N E R A L