

OFFICIAL OPINION NO. 75-136, Publication of the names of indigent patients in newspapers

STATE OF SOUTH DAKOTA
OFFICE OF
THE ATTORNEY GENERAL

July 29, 1975

Mr. George Zacher
County Auditor
McPherson County
Leola, South Dakota 57456

OFFICIAL OPINION NO. 75-136

Publication of the names of indigent patients in newspapers

Dear Mr. Zacher:

You have submitted the following fact situation:

Pursuant to SDCL 7-18-3, the county auditors of this state have published complete reports of official county commissioner meetings once a month in official or legal newspapers. These publications have traditionally included the names of those individuals receiving poor relief, or those individuals who own property which is subject to a poor relief lien. However, the 1975 Legislature amended SDCL 7-18 and SDCL 28-13 (S.B. 200) by inserting a provision which prohibits county auditors from releasing the names of poor relief recipients.

7-18-3.1. Names of poor relief recipients not published.- The name of any person receiving or who is entitled to poor relief as provided in chapter 28-13 shall not be published as a part of the minutes of county commissioners meetings as provided in § 7-18-3.

28-13-42. Names of recipients not released for publication.- The county auditor or any other county official shall not release the name of any poor relief recipient for publication.

Your question is whether these provisions prevent the publication of the names of indigent patients of the Human Services Center who have become charges of the counties of their original residence?

Your question involves SDCL 28-14-3, and SDCL 28-13-27, which read:

28-14-3. Support and relief for which lien may be established-Burial expenses.-For the purpose of §§ 28-14-5 to 28-14-18, inclusive, a poor person shall mean any person who receives support, care, and maintenance as a poor person, or any person who is a patient of

the Yankton state hospital and any and all other cases wherein any county within this state shall become obligated to, and does pay for any care, support, and maintenance. It shall also include all moneys expended by any county for burial expenses.

28-13-27. Hospitalization of poor persons-Definition of terms.-Unless the context otherwise plainly requires, terms used in §§ 28-13-27 to 28-13-36, inclusive, shall mean:

(1) Hospital. Any hospital in the state of South Dakota, duly licensed by the state department of health, serving the public as such, and providing hospitalization for the sick and injured.

(2) Indigent person. Any person entitled to poor relief under the provisions of this chapter.

(3) Emergency case. Hospitalization provided under circumstances certified by a duly licensed physician as necessitating immediate hospital care and attention.

(4) Actual cost of hospitalization. The actual cost to such hospital of providing hospitalization to an indigent person, determined as provided in §§ 28-13-28 to 28-13-32, inclusive.

It is clear that the Legislature intended indigent patients receiving services from the Human Services Center to have the same status as county residents receiving other forms of poor relief. You will note that SDCL 7-18-3.1 and 28-13-42 prohibit the publication of the names of those entitled to poor relief, *as provided by SDCL 28-13*. The definition of hospital in SDCL 28-13-27 is broad enough to include the Human Services Center within its terms. Indigent persons are defined in subsection two as any person "entitled to poor relief."

It is the opinion of this office that indigent patients of the Human Services Center are receiving poor relief [as that term is used in Chapter 79 of the 1975 Session Laws (S.B. 200)]. Accordingly, you should not cause to be published the names of these patients in official newspapers.

Respectfully submitted,

William Janklow
Attorney General

WJJ:GJV:dk