

April 11, 2006
OPINION NUMBER 05-0318

3 Appropriations
107-A Special Districts
90-A-1 Public Funds and Contracts
R.S. 46:2661 et seq.
R.S. 46:2665
R.S. 36:245

Ms. Jan Kasofsky, Executive Director
Capital Human Services District
4615 Government Street, Bldg. 2
Baton Rouge, LA 70806

Summary: MOU between DHH and the District authorizes District to direct operation and management of community-based public health services and governs transfer of functions and funds relative to those services. Questions of fact regarding DHH's ability to change the means of financing within District's annual appropriation are governed by provisions of the MOU.

Dear Ms. Kasofsky:

You have requested an Attorney General's opinion as to whether the Department of Health and Hospitals ("DHH") can authorize changes in the means of financing within the Capital Area Human Services District's ("Capital Area District") annual appropriation without the District's consent. We refer you to the following legal provisions.

R.S. 46:2661 et seq. created the Capital Area District to direct the operation and management of community-based public health programs in five parishes. R.S. 46:2665 authorized the transfer of the functions and funds for the operation of these programs from DHH to the Capital Area District, and provides, in pertinent part, as follows:

A. The secretary of the department and the board are hereby authorized to enter into all agreements necessary to transfer the functions and funds relative to the operation of community-based public health, mental health, developmental disabilities, and substance abuse services for the parishes.

R.S. 36:245 outlines DHH's powers and duties and provides, in pertinent part:

F(2) Funds appropriated by the legislature for the costs of providing those functions and services transferred from the department to the district shall be included in the department budget and shall be transferred from the department to the district in accordance with the agreement between the secretary of the department and the district. The secretary shall provide for the inclusion of such funds in the department budget request.

You indicated that DHH and the Capital Area District entered into an agreement to allow the Capital Area District to direct the operation and management of these services. This agreement, or MOU, governs the transfer of the functions and funds from DHH to

the District relative to the services provided by the District. Whether DHH can change the means of financing within the District's annual appropriation without the District's consent is a question of fact governed by the provisions of the MOU. Our office does not act as a finder of fact, and therefore, cannot render an opinion on that question.

To aid you in your determination, we refer you to Section IX of the MOU on reallocation of resources and staff and financial agreements. Paragraph D of Section IX provides, in pertinent part, as follows:

Revisions of the budget may be made upon written consent between the LGE and the DHH and, as appropriate, through the Joint Legislative Budget Committee's (JLCB) BA-7 process.

We trust the above information will help you in your determination. If you have additional questions, please contact our office.

With kindest regards, I remain

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: _____
DENISE BROU FITZGERALD
Assistant Attorney General

CCF, jr./DBF/dam

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Syllabus

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Ms. Jan Kasofsky, Ph.D
Executive Director
CAPITAL HUMAN SERVICES DISTRICT
4615 Government Street, Bldg. 2
Baton Rouge, LA 70806

Date Received:

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Denise Brou Fitzgerald
Assistant Attorney General