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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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JUN 12 2013
OPINION 13-0071

Mr. Michael Davis, Vice Chairman
Louisiana Board of Wholesale Drug Distributors
12091 Bricksome Avenue, Suite B
Baton Rouge, Louisiana 70816

90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const. art. VII, Sec. 14
La. R.S. 37:3467

The Louisiana Board of Wholesale Drug Distributors does not have the statutory authority to purchase immovable property.

Dear Mr. Davis:

The Louisiana Board of Wholesale Drug Distributors ("Board") has requested an opinion of this office regarding whether it has the authority to purchase and own immovable property. Your request states that the Board is considering purchasing the office building it currently occupies for its administrative office.

Our office has consistently opined that in order for a state department, agency, board or district to buy or sell immovable property, it must be specifically authorized to do so by the legislative act by which it was created. See La. Atty. Gen. Op. Nos. 09-0220, 03-0100, 01-46 and 95-342.

Our review of the statutes creating and setting forth the powers and duties of the Board, La. R.S. 37:3461-3482, did not reveal any provision which authorizes the purchase of immovable property. La. R.S. 37:3467, which sets forth the powers and duties of the Board, provides as follows:

A. The Board shall:

- (1) Approve, deny, revoke, or suspend licenses of qualified applicants for licensure as wholesale drug distributors and renew licenses.
- (2) Regulate the distribution of legend drugs or legend devices by wholesale drug distributors.
- (3) Monitor compliance with all federal and state laws and regulations regarding the distribution of wholesale legend drugs or legend devices by wholesale drug distributors and promulgate rules and regulations relative thereto.

- (4) Conduct inspections of wholesale drug facilities.
- (5) Conduct hearings on charges relative to the violation of any provision of this Chapter.
- (6) Exercise all other powers necessary and proper to perform its duties within the scope of this Chapter.

B. The board may:

- (1) Issue subpoenas and administer oaths to persons giving testimony at hearings.
- (2) Employ and fix compensation of persons necessary to carry on the work of the board.
- (3) Appoint an attorney to represent the board in all matters pertaining to the administration of this Chapter, define his duties, and fix his compensation.

Although it is our opinion that the statute cited above does not give the Board the authority to purchase immovable property, we note that the legislature may always amend these statutes to expressly give the Board the authority to do so.

If, in the future, the Board's enabling statutes allows for the purchase of immovable property, we remind you that the purchase of immovable property for a price that exceeds the appraised value is tantamount to a donation of funds prohibited by Article VII, Section 14 of the Louisiana Constitution. La. Atty. Gen. Op. No. 99-251.

In conclusion, it is the opinion of this office that the Louisiana Board of Wholesale Drug Distributors does not have the statutory authority to purchase immovable property.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
Attorney General

By:



Lindsey K. Hunter
Assistant Attorney General

JDC/LKH/chb