

**OPINION**  
**52-25**

May 17, 1952            (OPINION)

COUNTIES

RE:    Commissioners Authorized to Make Compromise Settlements with For  
         Patients for Institutional Care

Your letter of April 18, 1952, addressed to the State Board of Administration, has been referred by that office to us for consideration and reply. You request an opinion as to whether or not the county commissioners are legally empowered to make compromise settlements with former patients of state institutions or administrators of their estates.

Our courts have consistently held that county commissioners are vested with the general management of the fiscal affairs of the county and have the power to institute and prosecute civil actions for and on behalf of and in the name of the county. In absence of express or implied inhibition, the power to sue carries with it by necessary implication authority to make reasonable and honest compromises of suits authorized to be brought. The statutes of this state relating to the powers of the county commissioners contain no express or implied inhibition upon the power to compromise and the existence of such power has been specifically recognized in the decisions of our courts. Of course, it goes without saying, the board of county commissioners may not, under guise of a compromise, surrender valuable rights or interests in claims against solvent and responsible individuals where there is no substantial controversy as to their liability. In the institution and prosecution of actions to enforce claims in favor the county, the county acts through its board of county commissioners, and it would, indeed, be a somewhat strange policy if those authorized to institute an action must necessarily go through to the bitter end with it, even though a compromise were offered which would be much more advantageous to the county.

It is, therefore, our opinion that compromise settlements, if made by the county commissioners in good faith, and if they accomplish what in their judgment is a desirable compromise of what they believe to be a claim of doubtful value, such a compromise settlement is authorized and also in keeping with sound business procedure.

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Attorney General