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ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD



**September 27, 1976**

**FILE NO. S-1150**

**PUBLIC HEALTH:  
County Health Department's  
Authority to Charge Fees**

**Honorable Martin Rudman  
State's Attorney of Will County  
Courthouse  
Joliet, Illinois 60431**

**Dear Mr. Rudman:**

**This is in response to your letter concerning the clinical laboratory maintained by the Will County Health Department. This clinical laboratory is licensed by the State and is located at a nursing home operated by the county. Prior to the establishment of this county laboratory, a privately owned laboratory performed the necessary clinical tests on a fee basis for the patients at this nursing home. Presently, the county laboratory performs these tests on a fee basis for the nursing home patients as well as for county residents**

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who seek such testing services. You direct my attention to section 14 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments". (Ill. Rev. Stat. 1975, ch. 111 1/2, pars. 20c et seq.) and ask three questions:

1. May the county board authorize the county health department to charge fees for laboratory testing without a judgment being made by the State Department of Public Health that such services are not otherwise available in the county through other sources?
2. If a private laboratory is adequately serving publicly-funded agencies, may a county laboratory be established by a board of health, pursuant to chapter 111 1/2, section 20c13 of the 1975 Illinois Revised Statutes?
3. Assuming that a county laboratory may be established by a county health department, to service only publicly-funded agencies such as Sunnyhill Nursing Home, may such a laboratory also service residents of the county who are not patients of a county nursing home and therefore act in competition with private laboratories which also perform this service?

It is my opinion that the county board has the power to authorize the county health department to charge fees for laboratory testing without a prior judgment being made by the State Department of Public Health that such services are not otherwise available in the county through other sources. A county laboratory may be established by a county board of health

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to aid the county health department in performing its duties even though a private laboratory may be adequately serving publicly-funded agencies. Whether the county laboratory may be used to serve other such agencies depends upon the nature, powers and duties of the agency in question. Finally, the county laboratory may be used to provide testing services to residents of the county if the county board finds that this activity is necessary and expedient to promote the public health. The fact that the county laboratory may compete with private laboratories is a factor to be taken into account in determining as a matter of policy whether it is necessary for the county to provide testing services.

Your first question arises from the language contained in section 14 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1975, ch. 111 1/2, par. 20c13) which states in pertinent part:

"The board of health of each county or multiple-county health department may:

Recommend to the county board or boards the adoption of such ordinances, regulations or other authority as may be deemed necessary or desirable for charging a fee for specialized inspections, testing, and home health services when such services in the judgment of the State

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Department of Public Health are not adequately available in the county through other sources. Fees so collected to be credited to the County Health Fund or to the account of the multiple-county health department."

It is unclear whether the phrase "when such services in the judgment of the State Department of Public Health are not adequately available in the county through other sources" refers strictly to "home health services" or whether it includes "testing". The doctrine of the "last antecedent clause" is a well-recognized rule of statutory construction and is applicable here. This canon of construction states that relative or qualifying words or phrases are to be applied to the words or phrases immediately preceding, and not to other words, phrases or clauses more remote unless such extension or inclusion is clearly required by the intent and meaning of the context or disclosed by an examination of the entire Act. (Stevens v. Illinois Central R.R. Co., 306 Ill. 370.) Under this rule the term "such services" would refer only to the immediately preceding words "home health services" and not to the more remote words "inspection" and "testing". No contrary legislative intent is evident from the context of this particular section, nor from an examination of the Act itself. Furthermore, the absence of a comma between the term "home health

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services" and the word "when" indicates that the phrase which requires the State Department of Public Health's finding is to be grouped with the term "home health services" and not with the terms "inspection" and "testing". I therefore conclude that pursuant to section 14, the county board may authorize the county health department to charge a fee for testing services without a prior finding by the State Department of Public Health that testing services for which a charge is sought to be made are not otherwise available in the county.

Your second question concerns the authority of a county health department to establish a clinical laboratory. A county health department is authorized to investigate the existence of diseases and to make all necessary sanitary and health investigations and inspections. (Ill. Rev. Stat. 1975, ch. 111 1/2, par. 20c13.) In conjunction with these duties, section 14 of the Act expressly authorizes a county board of health to "provide, equip and maintain suitable offices, facilities and appliances for the health department". It should be clear that the above provisions empower a county board of health to establish a laboratory to enable the health department to conduct health investigations, testing, inspections,

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or any other function or duty to be performed by the county health department. This power to establish a laboratory to serve the health department is not limited by the availability of laboratory services from a private source.

The question of whether the laboratory facility may be used by "publicly-funded agencies" other than the county health department, depends upon the nature, powers and duties of the particular agency in question. For example, in the case of a county nursing home, the county board is expressly authorized "to arrange for physicians' services and other medical care for the patients in the home \* \* \* ". (Ill. Rev. Stat. 1975, ch. 34, par. 5362(6).) The county board, therefore, has authority to utilize the county laboratory to provide testing services for the nursing home patients and to recover the costs of such services. Please further note that a county board of health is authorized to "enter into contracts with municipalities, other political subdivisions and non-official agencies for the purchase, sale or exchange of health services". Ill. Rev. Stat. 1975, ch. 111 1/2, par. 20c13.

Your third question asks whether the county health department may extend the services provided to the patients of the county nursing home to other residents of the county,

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even though this may result in some competition with private laboratories in the county. The portion of section 14 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" which was considered in my response to your first question requires the county board of health to first obtain authority from the county board to charge a fee for testing services performed by the county laboratory. In this regard, section 25.12 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1975, ch. 34, par. 419) grants the county board very broad authority to provide for the public health. This section states in pertinent part:

"§ 25.12 During the period that 'An Act in relation to the establishment and maintenance of county and multiple-county public health departments', approved July 9, 1943, as amended, is in force in the particular county, to:

(1) do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease;  
\* \* \* "

Therefore, the extension of clinical laboratory testing services to county residents on a fee basis may be properly authorized if the county board finds such action to be necessary or expedient for the promotion of health or the suppression of disease.

Very truly yours,

A T T O R N E Y   G E N E R A L