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HEALTH:
County Public
Health Department

Honorable John J. Bowman
State's Attorney
DuPage County
240 E. Willow Street
Wheaton, Illinois 60187

Dear Mr. Bowman:

I have your recent letter wherein you state in part:

"The DuPage County Public Health Department is about to establish three permanent programs, in three general areas, with satellite facilities throughout the county, namely,

- a. housing facilities (half-way houses) for those experiencing psychiatric disability. As to this area of operation the department does not qualify under Chapter 111 1/2 Section 20c23.

- b. V. D. clinics.
- c. home nursing care.

* * * * *

1. Does a county public health department, under Chapter 111 1/2 Section 20c13 have the authority to purchase an apartment building for the purpose of providing housing facilities (half-way house) for those who may have experienced a recent psychiatric hospitalization, and those who are experiencing a psychiatric disability to the extent that it has temporarily hindered their ability to function independently?
2. Does a county public health department, under Chapter 111 1/2 Section 20c13 have the authority to maintain and provide care and treatment facilities for those afflicted with venereal diseases?
3. Does a county public health department, under Chapter 111 1/2 Section 20c13 have the authority to maintain and provide home nursing care to the citizens of the county?"

Section 25.12 of "An Act to revise the law in relation to counties" (Ill. Rev. Stats. 1972 Supp., ch. 34, par. 419) provides in 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;

* * * * *

(2) provide gratuitous vaccination and disinfection;

(3) require reports of dangerously communicable diseases;

(4) incur expenses necessary for the performance of powers hereinabove set forth;

(5) adopt resolutions for the regulations issued under paragraph 1 or to require reports under paragraph 3. A violation of any such resolution is a petty offense.

Sections 14 and 15.1 of "An Act in relation to the establishment and maintenance of county and multiple-county public health departments," (Ill. Rev. Stats. 1971, ch. 111 1/2, pars. 20c13, 20c13.1) which read in part:

"§14. The board of health of each county or multiple-county health department shall:

* * * * *

4. Provide, equip and maintain suitable offices, facilities and appliances for the health department;

* * * * *

6. Within its jurisdiction, and professional

and technical competence, enforce and observe all State laws pertaining to the preservation of health, and all county and municipal ordinances except as otherwise provided in this Act;

7. Within its jurisdiction, and professional and technical competence, investigate the existence of any contagious or infectious disease and adopt measures, not inconsistent with the regulations of the State Department of Public Health, to arrest the progress of the same;

* * * * *

15. Establish and carry out programs and services in mental health, including mental retardation, not inconsistent with the regulations of the Department of Mental Health;

* * * * *

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

1. Initiate and carry out programs and activities of all kinds, not inconsistent with law, that may be deemed necessary or desirable in the promotion and protection of health and in the control of disease;

* * * * *

§15.1 The board of health of each county or multiple-county health department is authorized to lease or to acquire by purchase, construction, lease-purchase agreement or otherwise and take title in its name and to give a purchase money mortgage, maintain, repair, remodel or improve, such real estate as may be reasonably necessary

for the housing and proper functioning of such health department. Money in the County Health Fund may be used for such purposes. * * *

My answer to your first question is "yes". In framing your first question you refer to section 24 of the Act. (Ill. Rev. Stats. 1971, ch. 111 1/2, par. 20c23) and state that the DuPage County Public Health Department does not qualify under that section. I assume you mean that the DuPage County Board has not enacted a resolution as provided in that section and is not authorized to levy additional taxes provided therein. DuPage County is, of course, a county of population of more than 300,000 and less than 1,000,000 inhabitants as provided in said section 24. It is my opinion that failure of the county board to proceed under section 24 does not affect the power of the Board of Health to establish and carry out a mental health program as provided in section 14, sub-section 15 (quoted, supra) which sub-section contains a grant of authority to the Board of Health of the DuPage County Health Department to establish such programs. It is noteworthy that the content of subparagraph 5 of section 14 (Ill. Rev. Stats. 1969, ch. 111 1/2,

par. 20c13) was a power which a Board of Health "may" employ, and has now, by being transposed to its current position, become a power which the Board of Health "shall" employ.

DuPage County has established a County Public Health Department under the provisions of "An Act in relation to the establishment and maintenance of county and multiple-county public health departments". (Ill. Rev. Stats. 1971, ch. 111 1/2, pars. 20c-20c23. Hereinafter called The County Health Department Act.) The DuPage County Board, therefore, has the powers enumerated in section 25.12 of "An Act to revise the law in relation to counties. (Supra, hereinafter called The Counties Act.) It is my opinion that under said section 25.12 and under the quoted provisions of sections 14 and 15.1 of The County Health Department Act there is ample authority to purchase an apartment building as related in your first question. You will note that sub-paragraph 4 of said section 14 grants authority to equip and maintain "facilities", sub-paragraph 15 authorized mental health programs and said section 15.1 authorizes the Board of Health to acquire real estate by purchase.

The answer to your second question is "yes".

The county board under section 25.12 of The Counties Act (supra) has power with reference to suppression of disease while the County Board of Health under sub-paragraph 7 of section 14 of The County Health Department Act has the power to adopt measures to arrest the progress of any contagious or infectious disease. Certainly, venereal disease falls within that category. The power to maintain and provide facilities for such care and treatment, again, is provided under sub-paragraph 4 of section 14 and section 15.1. (Cited supra.)

The answer to your third question is "yes". The DuPage County Health Department can provide home nursing care. Such authority, while not expressly stated, is clearly implied from the general powers of a County Board of Health and was assumed by the Legislature to be within those powers as evidenced by the second sub-paragraph 6 of section 14 of The County Health Act, which reads:

"6. 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 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." (Emphasis supplied.)

Necessary implications and intendments from the language used in a statute may be resorted to in order to ascertain the legislative intent. (U.S. v. Jones, 204 F. 2d 743.)

In conclusion, the answer to all three of your questions is in the affirmative.

Very truly yours,

A T T O R N E Y G E N E R A L