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SPRINGFIELD

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**FILE NO. S-1414**

**COUNTIES:**

Power of County Nursing Home  
to Act as a Home Health Agency

Honorable Thomas J. Difanis  
State's Attorney, Champaign County  
Court House  
Urbana, Illinois 61801

Dear Mr. Difanis:

This responds to your letter wherein you ask whether a county nursing home may function as a "home health agency" as that term is defined in section 2.04 of the Home Health Licensing Act. (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 2802.4.) It is my opinion that a county nursing home may not function as a home health agency.

The Home Health Agency Licensing Act (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 2801 et seq.) provides a system for licensing home health agencies. Section 2.04 of the Act defines "home health agency" as follows:

"'Home Health Agency' means a public agency or private organization that provides skilled nursing services and at least one other home health service as defined by this Act."

Section 2.05 of the Act (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 2802.5) defines "home health services" as follows:

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"'Home health services' means services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician. Such services include part time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services, or services provided by a home health aide." (Emphasis added.)

It is apparent the services provided by a home health agency are provided to the patient in his home. This distinguishes a home health agency from a nursing home. A nursing home provides maintenance, personal care and nursing to persons who reside in the nursing home. (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 35.16.) A home health agency, on the other hand, provides nursing and other therapeutic services in the patient's home.

A county has the authority to establish a county nursing home. (Ill. Rev. Stat. 1977, ch. 34, par. 303.) Whenever a county nursing home is established, the county board has the power to appropriate funds for nursing services; these services are provided only to the patients in the nursing home. Section 2 of the County Home Act (Ill. Rev. Stat. 1977, ch. 34, par. 5362) states that the county board shall have power:

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\* \* \*

8. To make appropriations from the county treasury for the purchase of land and the erection of buildings for the home, and to defray the

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expenses necessary for the care and maintenance of the home and for providing maintenance, personal care and nursing services to the patients therein, and to cause an amount sufficient for these purposes to be levied upon the taxable property of the county and collected as other taxes.

\* \* \*

(Emphasis added.)

A county nursing home is a county agency with limited authority; it provides maintenance, personal care and nursing to the patients who are in the home. A county nursing home does not have the authority to carry out a program of home health services. As a result, it is my opinion that a county nursing home may not function as a home health agency.

It should be noted that another county agency has the authority to act as a home health agency. The Illinois Department of Public Health has licensed many county health departments as home health agencies. Section 14 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 20c13) states that the board of health of each county or multiple-county health department may:

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1. Initiate and carry out programs and activities of all kinds, not inconsistent with law, that may be deemed necessary or desirable in

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the promotion and protection of health and in the control of disease;

\* \* \*

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 added.)

Very truly yours,

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