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SPRINGFIELD

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PUBLIC HEALTH:
Public Health Administrator

Honorable Theodore J. Floro
State's Attorney
McHenry County
2200 North Seminary Avenue
Woodstock, Illinois 60098

Dear Mr. Floro:

I have your letter wherein you inquire whether county board committees may be given authority by ordinance to review orders of the public health administrator. For the reasons hereinafter stated, it is my opinion that the public health administrator is responsible to the county board of health and that the county board may not give to one of its committees the authority to review his orders.

A county is a mere creature of statute and can exercise only those powers expressly granted by statute or necessarily implied therefrom. (Heidenreich v. Ronske (1962), 26 Ill. 2d 360, 362.) Therefore, if a county establishes a

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health department, it must do so within the confines of "AN ACT in relation to the establishment and maintenance of county and multiple-county health departments" (Ill. Rev. Stat. 1977, ch. 111½, par. 20c et seq.), its express statutory authority for establishing such a department.

A county health department is a county agency (1974 Ill. Atty Gen. Op. 107; 1973 Ill. Atty Gen. Op. 108), but once created, such department has certain statutory powers exercisable by the board of health without the consent of the county board. (Ill. Rev. Stat. 1977, ch. 111½, pars. 20c13 through 20c14.1.) The county board, of course, exercises authority over the county health department through its powers to appoint and remove for cause, members of the board of health and to control, through budget and the power to levy, the fiscal affairs of the department. Ill. Rev. Stat. 1977, ch. 111½, pars. 20c10, 20c12, 20c13.

Section 14 of the Act (Ill. Rev. Stat. 1977, ch. 111½, par. 20c13) provides that the board of health shall:

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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

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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;

8. Within its jurisdiction, and professional and technical competence, make all necessary sanitary and health investigations and inspections;

* * *

10. Appoint a medical health officer as the executive officer for the department, who shall be a citizen of the United States and shall possess such qualifications as may be prescribed by the State Department of Public Health; or appoint a public health administrator who shall possess such qualifications as may be prescribed by the State Department of Public Health as the executive officer for the department, provided that the board of health shall make available medical supervision which is considered adequate by the Director of Public Health;

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It is clear that the board of health appoints the public health administrator and therefore, has control over the actions of such administrator. The administrator is not, under the existing statutory scheme, subject to the county board or any of its committees with regard to the enforcement of laws or ordinances pertaining to the preservation of health, nor may he be made subject to such board or its committees by county ordinance.

The county board is, of course, empowered to discontinue the county health department if it created the

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department by resolution, and the department may be discontinued by referendum if it was created in that manner. (Ill. Rev. Stat. 1977, ch. 111½, par. 20c15.) As long as the department continues in existence, however, its statutorily granted powers must be respected by the county board, and no ordinance interfering with its powers would be proper.

Very truly yours,

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