

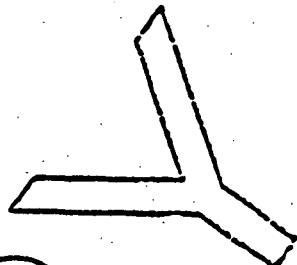


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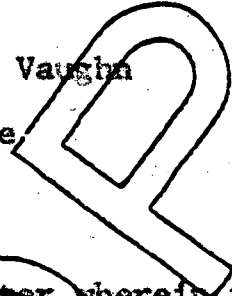
December 12, 1980

FILE NO. 80-043

COUNTIES:
Disclosure of Compensation
Funds Paid to County-
Contracted Medical Specialists

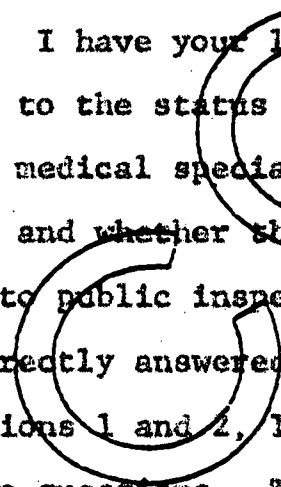


Honorable Charles Bradley Vaughn
State's Attorney
Richland County Courthouse
Olney, Illinois 62450



Dear Mr. Vaughn:

I have your letter wherein you pose several questions relating to the status of funds collected by a county for contract medical specialists performing services in a county hospital and whether the records for payment thereof are subject to public inspection. Because your questions 3 and 4 are indirectly answered by the conclusion reached with regard to questions 1 and 2, I will discuss specifically only your first two questions. Therein, you inquire whether the funds collected by Richland County for contract medical specialists performing services in the county hospital are public or private funds and whether the records of such funds, including total receipts, amount of disbursement and to whom paid, are subject to public inspection. For the reasons hereinafter



Honorable Charles Bradley Vaughn - 2.

stated, it is my opinion that records relating to such funds are available for public inspection in accordance with pertinent provisions of "AN ACT to revise the law in relation to county treasurer" (Ill. Rev. Stat. 1979, ch. 36, pars. 5, 6) and The Local Records Act (Ill. Rev. Stat. 1979, ch. 116, par. 43.103a).

According to your letter:

"Richland County, Illinois, operates a hospital which is not a separate governmental unit. The County Board manages the hospital through our administrator.

Separate books are kept by the hospital; however, all checks and disbursements of the hospital are handled in usual fashion. The board approves all bills, a check is drafted, presented to the County Clerk for signature and is countersigned by the County Treasurer.

The County has entered into several contracts with certain medical specialists * * *.

You will note that in these instances the medical specialist performs certain services and the County bills the patient. When the fees are collected, the County retains in general only a reserve for bad debts; the County retains no part of the fee. As the monies are collected, they are deposited by the County and disbursed to the contract medical specialist, or at his direction."

In addition, you have enclosed copies of currently effective contracts which specifically provide that the hospital shall do the billing for medical services supplied by physicians or laboratories on contract basis and pay their fees directly on a monthly basis.

Richland County clearly has the power to establish, maintain and manage a county hospital pursuant to section 24 of

Honorable Charles Bradley Vaughn - 3.

"AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1979, ch. 34, par. 303), which provides that:

"Each county shall have power -

* * *

Seventh - To cause to be erected, or otherwise provided, suitable buildings for, and maintain a county hospital * * * and to provide for the management of the same. The county board may establish rates to be paid by persons seeking care and treatment in such hospital or home in accordance with their financial ability to meet such charges, either personally or through a hospital plan or hospital insurance, and the rates to be paid by governmental units, including the State, for the care of sick, chronically ill or infirm persons admitted therein upon the request of such governmental units.

Eighth - To contribute such sums of money toward erecting, building, maintaining, and supporting any non-sectarian public hospital located within its limits as the county board of the county shall deem proper.

* * *

Because the county hospital is administratively operated by the county, the county treasurer is responsible for all hospital fund management. According to your letter, the county bills the patient, and as monies are collected, they are deposited into the county fund and disbursed therefrom to the contract medical specialist, or at his direction. Because the medical specialists' compensation funds are received and disbursed by the county treasurer, "AN ACT to revise the law in relation to county treasurer" (Ill. Rev. Stat. 1979, ch. 36, par. 1 et seq.) is applicable. Sections 5 and 6 of that Act (Ill. Rev. Stat. 1979, ch. 36, pars. 5, 6) provide that:

"§5. Every county treasurer shall keep proper books of account whether mechanically, electronically or otherwise produced, used and maintained, and in whatever form such books of account may have by virtue of modern accounting machines and procedures, in which he shall keep a regular, just and true account of all moneys, revenues and funds received by him, stating particularly the kind of funds received, whether in gold, silver, county orders, jury certificates, auditor's warrants, or other funds authorized by law to be received as revenue, the time when, or whom, and on what account each particular sum in money or other funds was received, and also of all moneys, revenues and funds paid out by him agreeably to law, stating particularly the time when, to whom, and on what account payment is made. This section is subject to the provisions of 'The Local Records Act', enacted by the Seventy-Second General Assembly."

"§6. Said books of account shall be free to the inspection of all persons wishing to examine the same." (Emphasis added.)

Consequently, the books of account kept by the county treasurer regarding the receipt and the disbursement of all monies, funds, and revenues under his control are, by statute, free to public inspection regardless of whether those funds are characterized as public or private funds.

The provisions of section 5 of "AN ACT to revise the law in relation to county treasurer" are subject to The Local Records Act (Ill. Rev. Stat. 1979, ch. 116, par. 43.101 et seq.). Section 3a of that Act (Ill. Rev. Stat. 1979, ch. 116, par. 43.103a) provides that:

"Reports and records of the obligation, receipt and use of public funds of the units of local government and school districts are public records available for inspection by the public. These records shall be kept at the official place of business of each unit of local government and school district or at a designated place of business of the unit or district."

These records shall be available for public inspection during regular office hours except when in immediate use by persons exercising official duties which require the use of those records. The person in charge of such records may require a notice in writing to be submitted 24 hours prior to inspection and may require that such notice specify which records are to be inspected. Nothing in this section shall require units of local government and school districts to invade or assist in the invasion of any person's right to privacy." (Emphasis added.)

As indicated above, section 3a specifically requires that the reports and records of the obligation, receipt and use of public funds of units of local government are public records available for inspection by the public. Under the contracts with medical specialists, the county treasurer receives and disburses " * * * an amount equal to 100% of all such billings (less 5% withheld to cover bad debts) * * *" rather than merely passing the patient's check on to the medical specialist. Consequently, the monies so received by the treasurer become a part of the county fund from which the treasurer is obliged, by contract, to disburse a sum equal to the contract amount, to the medical specialist, and, as such, should be considered public funds. Therefore, the reports and records of the obligation, receipt and use of these funds are also required to be open to public inspection by The Local Records Act. As you have pointed out, the final sentence of section 3a provides that: "Nothing in this section shall require units of local government and school districts to invade or assist in the invasion of any person's right to privacy". Because the receipt and disbursements in

Honorable Charles Bradley Vaughn - 6.

question are from public funds and because the reports and records thereof are made from working documents in the treasurer's office and contain no data such as information related to clinical diagnosis or personal medical records, I can discern no invasion of privacy with respect to the patient or the contracting physician.

Very truly yours,

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