

OPINION NO. 66-024**Syllabus:**

A County Board of Health may regulate and license persons engaged in the business of cleaning septic tanks.

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To: Everett Burton, Scioto County Pros. Atty., Portsmouth, Ohio
By: William B. Saxbe, Attorney General, January 26, 1966

Under date of December 20, 1965, you requested an opinion regarding the following question:

"What is the authority of a County Board of Health to regulate and license persons engaged in the business of cleaning septic tanks?"

A County Board of Health exists by virtue of Section 301.24, Revised Code, and under that Section a County Board of Health shall exercise "all the powers and perform all the duties which are vested in or imposed upon the authorities of city or general health districts".

The powers of a County Board of Health are, therefore, derived from Section 3707.01, Revised Code, and in pertinent part that section reads as follows:

"The board of health of a city of general health district shall abate and remove all nuisances within its jurisdiction. It may, by order, compel the owners, agents, assignees, occupants, or tenants of any lot, property, building, or structure to abate and remove any nuisance therein, and prosecute such persons for neglect or refusal to obey such orders. Except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, the board may regulate the location, construction, and repair of water closets, privies, cesspools, sinks, plumbing, and drains. In cities having such departments or exercising such power, the legislative authority, by ordinance, shall prescribe such rules and regulations as are approved by the board and shall provide for their enforcement.

"The board may regulate the location, construction, and repair of yards, pens, and stables, and the use, emptying and cleaning

of such yards, pens, and stables and of water closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate."

You will note that the "emptying" of "cesspools" and of "other places where offensive or dangerous substances or liquids are or may accumulate," is clearly made a subject of regulation by a Board of Health. A septic tank is nothing more than a commercial, scientifically designed and chemically maintained cesspool. But in any event, without directly referring to septic tanks, the statute clearly covers them by inclusion in the words "other places".

There is, of course, clear authority and abounding precedent to the effect that the power to regulate contains the power to license. Your attention is directed to Opinion No. 1017, Opinions of the Attorney General for 1956, page 439, in which this general subject was discussed and in which I asserted that a health department had power to regulate the registration and licensing of water well drillers. See also City of Toledo v. Buechele, 21 C.C., 429.

It is, therefore, my opinion and you are advised that a County Board of Health may regulate and license persons engaged in the business of cleaning septic tanks.