

OPINION 65-188**Syllabus:**

The Board of County Hospital Trustees may employ a private collection agency to aid in the collection of delinquent accounts owed to the County Hospital. (Opinion No. 3199, Opinions of the Attorney General for 1962, page 631, distinguished)

To: Marshall E. Peterson, Greene County Pros. Atty., Xenia, Ohio
By: William B. Saxbe, Attorney General, October 20, 1965

Your request for my opinion reads as follows:

"The Greene Memorial Hospital, a tax supported insitution of Greene County, Ohio has recently been advised that delinquent hospital accounts cannot be handled through the employment of private collection agencies. This advice was given by the tax examiners for the state of Ohio.

"There are previous Attorney General opinions in this area but they have not to my knowledge answered this specific question, to-wit: 'can the trustees of the Green Memorial Hospital employ private collection agencies to collect delinquent accounts owed to the hospital?'

"Your early advice in this matter will be greatly appreciated."

The statutory authority for the collection of delinquent accounts is set out in Section 339.03, Revised Code, and reads in pertinent part as follows:

"* * * * *"

"The board of county hospital trustees with the approval of the county

commissioners may employ counsel and institute legal action in its own name for the collection of delinquent accounts. The board may also employ any other lawful means for the collection of delinquent accounts."

In Opinion No. 3199, Opinions of the Attorney General for 1962, page 631, my predecessor in office rendered an opinion as to the authority of the board of county hospital trustees to sell or assign its delinquent accounts.

In the syllabus of Opinion No. 3199, supra, it is stated that the board of county hospital trustees had no authority to sell or assign its delinquent accounts under Section 339.03, supra.

The then Attorney General went on to say at page 632, Opinion No. 3199, supra:

"Under Section 339.03, supra, the board of hospital trustees may employ counsel and institute legal action to collect the delinquent accounts, or it may employ 'any lawful means for the collection of delinquent accounts.' It has been held that the words 'any other' apply only to such matters as are ejusdem generis with those comprehended in the preceeding part of a section. Lane v. The State, 39 Ohio St., 312 (1883). Thus, the words 'any other' must be read as 'other such like, and to include only others of like kind and character.' Words and Phrases, Volume 34, page 147.

"'Any other lawful means for the collection of delinquent accounts,' therefore, would refer to means such as employing counsel and instituting legal action. If the legislature had intended that a board of hospital trustees could sell or assign its delinquent accounts, then, in my opinion, it would not have used the words 'any other' and 'collection.'"

However, it is my opinion that Opinion No. 3199, supra, is limited to the factual situation involved, that is, the selling or assigning of accounts. Assigning or selling of an account is not a collection of the account even though the process may be similar. When a firm sells an account it receives the amount owed less the discount price and the buyer has a legal interest in the debt; whereas, when a firm hires a collection agent it has no guarantee of collecting any of the money owed and the agency has no legal interest in the unpaid debt. Accordingly, the Board could employ a private collection agency if said

agency performed an acutal service for the hospital. Opinion No. 65-151, Opinions of the Attorney General for 1965.

Furthermore, Section 339.03, supra, states that the Board may employ any other lawful means to collect delinquent accounts. It must be assumed that the General Assembly meant what it said, otherwise I would be performing a legislative function. If the legislature wanted to limit the collection of delinquent accounts to the employment of counsel, then that limitation, expressly stated, would have sufficed. However, the General Assembly did not stop there, but extended the power to "any other lawful means". Obviously, collection agencies are not unlawful, it is my opinion that they may be used by the Board of County Hospital Trustees to collect delinquent accounts.

Therefore, it is my opinion and you are hereby advised that the Board of County Hospital Trustees may employ a private collection agency to aid in the collection of delinquent accounts owed to the County Hospital. (Opinion No. 3199, Opinions of the Attorney General for 1962, page 631, distinguished)