

OPINION NO. 83-040**Syllabus:**

Pursuant to R.C. 339.231, if the board of trustees of a county tuberculosis hospital reasonably concludes that the services of a collection agency are necessary for the efficient and economical operation of its hospital, the board may employ such an agency to collect unpaid charges against patients and former patients of the hospital. (1953 Op. Att'y Gen. No. 2770, p. 290, overruled.)

To: James R. Unger, Stark County Prosecuting Attorney, Canton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, July 22, 1983

I have before me your request for an opinion on the question whether the board of trustees of a county tuberculosis hospital may employ a collection agency to collect unpaid charges against patients and former patients of the hospital. It is my understanding that the collection agency would use various methods to collect the unpaid charges, but that it would not provide legal representation of the hospital. See 1977 Op. Att'y Gen. No. 77-039 (syllabus, paragraph 1) ("[t]he county prosecuting attorney is, pursuant to R.C. 309.09, the legal advisor of the board of trustees of a county tuberculosis hospital created pursuant to R.C. 339.33 and such board is without authority to employ other legal counsel"). Compare R.C. 309.10, 339.03 (collection of delinquent accounts by a board of county hospital trustees). See generally 1965 Op. Att'y Gen. No. 65-188 (distinguishing 1962 Op. Att'y Gen. No. 3199, p. 631) (board of county hospital trustees may employ a private collection agency to aid in the collection of delinquent accounts).

Your request was prompted by 1953 Op. Att'y Gen. No. 2770, p. 290, which states, in the syllabus:

The board of trustees of a county tuberculosis hospital operated, managed and controlled as provided in Section 3139-13, General Code, is without authority to employ a collection agency to collect unpaid charges against patients and former patients in such hospital, but any such claims as cannot be collected by the board by ordinary administrative means should be collected by the prosecuting attorney of the county concerned, as provided in Section 2921, General Code.

As your request notes, however, the statutes governing county tuberculosis hospitals have been amended since the issuance of 1953 Op. No. 2770. R.C. 339.231, initially enacted in 1967, see 1967-1968 Ohio Laws, Part I, 327-28, Part II-III, 2144-45 (Am. S.B. 58, eff. Sept. 26, 1967), currently states, in relevant part:

Consistent with sections 3702.51 to 3702.67 of the Revised Code,¹ the board of trustees of a county or district tuberculosis hospital may lease land and buildings for hospitals, tuberculosis clinics, out-patient departments, or for other programs to control tuberculosis, and may enter into contracts for supplies, equipment, and services necessary for the efficient and economical operation of such hospitals, clinics, departments, and programs. (Emphasis and footnote added.)

The plain language of R.C. 339.231 authorizes the board of trustees of a county tuberculosis hospital to "enter into contracts for. . .services necessary for the efficient and economical operation" of the hospital. Thus, if the board reasonably concludes that the services of a collection agency are necessary for the efficient and economical operation of the hospital, it may enter into a contract for such services. See generally 1972 Op. Att'y Gen. No. 72-084.

No such general grant of authority to contract appeared in the statutes governing county tuberculosis hospitals when 1953 Op. No. 2770 was issued. See G.C. 3139 et seq. Therefore, based upon the changes in authority granted by statute to county tuberculosis hospitals, I overrule 1953 Op. No. 2770. See generally 1956 Op. Att'y Gen. No. 7307, p. 757 (comparing broad powers of a board of county hospital trustees to operate its hospital in an efficient and businesslike manner with limited powers of board of county tuberculosis hospital trustees considered in 1953 Op. No. 2770).

In conclusion, it is my opinion, and you are hereby advised, that, pursuant to R.C. 339.231, if the board of trustees of a county tuberculosis hospital reasonably concludes that the services of a collection agency are necessary for the efficient and economical operation of its hospital, the board may employ such an agency to collect unpaid charges against patients and former patients of the hospital. (1953 Op. Att'y Gen. No. 2770, p. 290, overruled.)

¹ R.C. 3702.51 and succeeding sections govern the issuance of certificates of need by the State Department of Health.