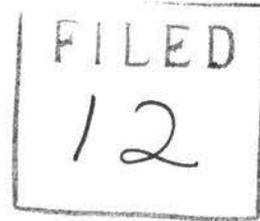


March 11, 1975

OPINION LETTER NO. 12  
Answer by letter-Card

Herbert R. Domke, M.D., Director  
Missouri Division of Health  
Broadway State Office Building  
Jefferson City, Missouri 65101



Dear Dr. Domke:

This official opinion is in response to your request for this office's opinion on the following:

"The Division of Health is directed by Section 192.050 RSMo to maintain various bureaus, including a bureau of laboratories, and to formulate orders and findings for the proper conduct of such bureaus. Should the services of medical laboratories operated by the Division of Health be made available to chiropractors licensed under Chapter 331 RSMo?"

You advise that the Division of Health operates medical laboratories in Jefferson City, Springfield, Poplar Bluff, and Mount Vernon. These laboratories test specimens submitted from throughout the state by physicians, hospitals, veterinarians, and public health offices as part of a various infectious, dangerous, communicable, and contagious disease program conducted by the Division.

The diseases for which specimens are submitted and laboratory tests conducted are as follows:

Meningococcal meningitis  
Other bacterial meningitis  
Infectious mononucleosis  
Salmonellosis  
Shigellosis  
Infant enteritis  
Food borne illness

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Other GI tract infections  
Conjunctivitis  
Skin fungus infections  
Tick borne fever  
Other zoonoses  
Influenza  
Viral pneumonia  
Tuberculosis  
Chicken pox  
Rubella  
Gonorrhea  
Viral central nervous system diseases  
Infectious hepatitis A  
Serum hepatitis B  
Rubeola  
Whooping cough  
Septicemia (Gram Neg.)  
Septicemia (Gram Pos.)  
All other bacterial infections  
Impetigo  
Tularemia  
Rabies  
Streptococcus infections  
Bacterial pneumonia  
Other upper respiratory illness  
Fungus infections  
Mumps  
Syphilis

Sections 192.020 and 192.050, RSMo 1969, provide as follows:

"It shall be the general duty and responsibility of the division of health to safeguard the health of the people in the state and all its subdivisions. It shall make a study of the causes and prevention of diseases. It shall designate those diseases which are infectious, contagious, communicable or dangerous in their nature and shall make and enforce adequate orders, findings, rules and regulations to prevent the spread of such diseases and to determine the prevalence of such diseases within the state. It shall have power and authority, with approval of the director of public health and welfare, to make such orders, findings, rules and regulations as will prevent the entrance of infectious, contagious and communicable diseases into the state." (Section 192.020, RSMo 1969)

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"The division of health shall maintain a bureau of vital statistics, a bureau of laboratories, a bureau of communicable diseases, a bureau of food and drug inspection, a bureau of child hygiene, a bureau of public health nursing, a bureau of tuberculosis control, a bureau of cancer control, a bureau of dental health, and other bureaus as may be necessary from time to time. The division, with the approval of the director of the department, shall formulate orders and findings for the proper conduct of the bureaus." (Section 192.050, RSMo 1969)

Unless required by other statutes, we believe that these provisions delegate to the Division of Health discretion as to what laboratory services to provide and to whom these services should be provided. The only provisions which we have found compelling the Division of Health to perform certain specific laboratory tests are Section 451.050(3), RSMo 1969 (premarital serological tests for syphilis) and Section 210.030, RSMo 1969 (prenatal serological tests for syphilis) which provide:

"3. Laboratory tests shall be made free of charge by the laboratory of the division of health or by such other public health laboratories wherever maintained in the state of Missouri, upon the request of a physician or by an applicant." (Section 451.050(3), RSMo 1969)

"Every licensed physician, midwife, registered nurse and all persons who may undertake, in a professional way, the obstetrical and gynecological care of pregnant women in the state of Missouri shall, if the woman consents in the case of each woman so attended, take or cause to be taken a sample of venous blood of such woman at the time of the first examination, or not later than twenty days after said first examination, and subject such sample to an approved and standard serological test for syphilis. An approved and standard test for syphilis shall mean a test made in a laboratory approved by the division of health of the department of public health and welfare. Such test shall be made free of

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charge by the division of health on request."  
(Section 210.030, RSMo 1969)

In light of Section 334.021 which provides that whenever other statutes of this state use the term "physician," it shall be construed to mean physicians and surgeons licensed under the provisions of Chapter 334, we are of the opinion that the legislature did not intend the word "physician" in the above two sections to include a licensed chiropractor.

We have not been able to find any statute which either authorizes or requires the Division of Health to perform laboratory tests at the request of a licensed chiropractor. But, as we understand, the primary purpose of maintaining and operating the various laboratories is as an adjunct to the state's efforts at controlling contagious and communicable diseases. Since the Division has the discretion as to how it is going to operate the laboratories, we are of the opinion that the Division, regardless of the source, has the authority to test any specimen submitted to it to determine whether a contagious or communicable disease is present. We further believe that it is within the discretion of the Division of Health to decide to whom the results of the various laboratory tests performed on any sample submitted are to be divulged.

Yours very truly,

JOHN C. DANFORTH  
Attorney General