

Opinion No. 71-68

May 19, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Mr. Roy Rumbaugh Administrator Dr. Dan C. Trigg Memorial Hospital 301 East Miel De Luna Avenue

QUESTIONS

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May the Dan C. Trigg Memorial Hospital, a county institution, impose a finance charge on the collection of accounts for services rendered?

CONCLUSION

Yes.

OPINION

{*99} ANALYSIS

The Dr. Dan C. Trigg Memorial Hospital was created under Section 15-48-1, N.M.S.A., 1953 Comp. which allows counties to construct, purchase, own maintain and operate hospitals. This {*100} statute does not require the county to establish a hospital; it only allows them to if they so desire. It is well established that when a governmental body is authorized to exercise proprietary powers and engage in a business activity, it has the same power to conduct that business activity as would any private entity. **Seaboard Airline R.R. Co. v. County of Crisp**, 280 F.2d 873 (5th Cir. 1960); **City of Oakland v. Burns**, 46 Cal. 2d 401, 296 P.2d 333 (1956); **Miami Beach Airline Service, Inc. v. Crandom**, 159 Fla. 504, 32 So. 2d 153 (1947); 2 McQuillan, **Municipal Corporations**, Section 10.05 (3rd Edition Revised 1966). It is reasonable and customary for a business to charge interest on open accounts. It is therefore the opinion of this office that the Dan C. Trigg Memorial Hospital may charge interest on open accounts.

The rate of interest applied must be consistent with that provided in Section 50-6-3, N.M.S.A., 1953 Comp. (Replacement Vol.). That section provides:

"The rate of interest in the absence of a written contract fixing a different rate, shall be 6% per annum, in the following cases:

First. On money due by contract . . .

Fourth. On money due upon the settlement of matured accounts from the day the balance is ascertained.

Fifth. On money due upon account, after six [6] months from the date of the last item."

By: Jay F. Rosenthal

Assistant Attorney General