

foods, drinks, confectionery, drugs, spices and condiments as the Secretary ... directs." This provision can be read to require uniform treatment of water supplies, milk, and other foods -- i.e., unless the Secretary directs otherwise, the analysis of all foods, including water and milk, is subject to a fee and, conversely, an order for free analysis of water and milk entails free analysis of other foods. However, the provision also can be read to require free analysis of water and of milk, but to allow a fee for analysis of other foods. This revision is based on the latter reading.

The revision of this section also is based on the assumption that a service is free, unless the Secretary specifically sets a fee for that service. Although the provision requiring free services for "such other matters as the Secretary directs" suggests that affirmative action is required to exempt a service from a fee, this requirement would be duplicative in light of the affirmative action required to set fees. In practice, the Department does not have a fee schedule for services since the services are provided either to the Department in the course of carrying out its own duties or to a physician or health officer in connection with disease prevention.

In subsection (a) of this section, the term "reasonable" is added to clarify the scope of authority to set fees.

As to subsection (b)(3) of this section and the references to "a communicable disease" and to "health officer" and "physician", see revisor's note to § 17-102 of this subtitle.

The provisions of the fourth sentence of Article 43, § 35(a)(2) that relate to payment and collection of fees now appear in § 16-207 of this article.

As to charges to counties for laboratory services that the Department performs, see Opinion No. 81-024 (October 8, 1981)(unpublished).

Defined terms: "Health officer" § 1-101  
"Physician" § 1-101 "Secretary" § 1-101

## SUBTITLE 2. MEDICAL LABORATORIES.

### 17-201. DEFINITIONS.