

MAINE STATE LEGISLATURE

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June 14, 1940

Honorable S. Arthur Paul
119 Exchange Street
Portland, Maine

Dear Sir:

In re Associated Hospital Service of Maine

The office of the Secretary of State has asked our opinion as to the right of your organization to register a so-called "trade mark" consisting of a blue cross with a symbol imposed on the center either with or without the words "blue cross".

I have advised the Deputy Secretary of State that your organization is not entitled under our present laws to register this trade mark for the purposes outlined in your application.

My attention has been called to the fact that on October 21, 1938, an application signed by William R. Murphy, Jr. was received from the Central Maine Hospitalization Service and that the Secretary of State's office recorded the application for the registry of a plain blue cross to be used in connection with the promotion of a service similar to that in which I understand your organization is engaged. I have advised the Secretary of State's office that in my opinion this application should not have been received and recorded, and that this record is of no legal effect and does not grant to that organization any exclusive rights to the use of that symbol or any combination of it similar to the one you are proposing to use. Appended hereto is a copy of a letter which the Deputy Secretary of State has prepared and sent to the Central Maine Hospitalization Service in accordance with the opinion which I have given him.

I have also been informed that since the filing of the application made by Mr. Murphy on behalf of the Central Maine

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Hospitalization Service and its recording in Volume 7, Page 50, Secretary of State's records, that Mr. Murphy and the Central Maine Hospitalization Service have ceased to engage in business in this State. If this is true, it is my opinion that even if the application of the Central Maine Hospitalization Service was properly received and recorded that any rights which that organization may have acquired to exclusive use of the blue cross, because of the absence of an assignment to some other organization which has continued its use under such assignment, have been lost by non user.

My opinion that such symbols are not entitled to registration under our statutes, is based upon the fact that our statutes provide for the registration of a mark, device or figure attached to or connected with an article manufactured or sold by the applicant, and that a certificate of service or an insurance policy is not a manufactured article or goods within the meaning of our statutes.

Very truly yours,

Franz U. Burkett
Attorney General

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