

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

appropriation for the purpose of securing a laboratory equipped for the purposes of teaching the classes usually taught in such a laboratory.

JAMES GLYNN FROST  
Deputy Attorney General

June 9, 1954

To Joseph A. P. Flynn, Executive Secretary, Electricians Examining Board  
Re: Per Diem for Board Members

This is response to your memo of May 26th in which you ask, "Whether or not the Board Members, while engaged in traveling to and from a Board meeting on a day when there is no meeting, would be entitled to their per diem allowance?"

The statute relating to per diem payments for members of the Board reads:

"The members of the board shall each be allowed the sum of \$10 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for license, and for any necessary hearings."

Section 3, Chapter 307, P. L. 1953.

It is the opinion of this office that a member of the Board is entitled to a per diem compensation for that day in which it is necessary for that member to travel to or from the place of meeting of the Board.

A member residing at a distance from the place of meeting "is not engaged in his own private business while traveling to and from the place of meeting, but is then employed in and about the matter of his 'attendance' upon a session" and it is our opinion that the legislature intended to compensate members for time necessarily and actually employed in the service of the State in their capacity as members of the Board.

We are personally aware that distances between cities and towns in this State are in some instances such that it is not possible for a person to leave his home the same day that a meeting is scheduled and negotiate the journey in time to be present for the meeting. So, too, the return trip may be similarly lengthy.

It is for this reason and no other that the present opinion is being given and it is not to be construed as being applicable to a case where a member, regardless of where his home may be, decides to go to the meeting a day early, or leave for home the day after the meeting. In all cases the Controller is vested with the discretion to determine if per diem in such a case would be a reasonable charge and payment.

JAMES GLYNN FROST  
Deputy Attorney General

June 17, 1954

To Israel Bernstein, Esquire  
Re: Drug Sundries

. . . You state that it is agreed by the Maine Board of Commissioners of Pharmacy and yourself as attorney for The Jayson Company, that the dif-

ference of opinion relative to interpretation of Section 14 of Chapter 62 of the Revised Statutes, as amended, be submitted to this office for an opinion.

You state that The Jayson Company, a Maine corporation, sells at wholesale patent or proprietary medicines in original and unbroken packages. Sales are made both to drug stores and to other types of stores which retail great numbers of these items.

It appears that the Maine Board of Commissioners of Pharmacy believes that your client, The Jayson Company, is in violation of said Section 14 by reason of its wholesale sales of drug sundries without having such items under the personal control and supervision of a registered apothecary. Complaint is also made that the designation of your client in the classified section of the telephone directory, "Druggist Sundries—Whol., Wholesale Distributors, Health Aids, Housewares, Toys, Novelties", is in violation of Section 14, and that likewise the words "Drug Sundries" and the symbol of a mortar and pestle printed on the panel of its trucks constitute a violation of the same section.

It is our opinion that if in fact non-poisonous patent or proprietary medicines, sold in original and unbroken packages, are the materials dealt in by The Jayson Company, then it is not in violation of our statutes in not having a registered apothecary who keeps personal control and supervision of the items in question. We are of the same opinion with respect to the designation of The Jayson Company in the classified section of the telephone directory and with respect to the words and figure used on the company's trucks.

In the second paragraph of Section 14, the provision of law requiring that drugs or medicines, etc., must be under the control of a registered apothecary does not apply to non-poisonous patent or proprietary medicines when sold in original and unbroken packages. The words themselves seem clear to us, and it is therefore our opinion, as stated above, that the activity of The Jayson Company, as described in your letter of May 17th, does not amount to a violation of the provisions of Section 14 of Chapter 62. . .

JAMES GLYNN FROST  
Deputy Attorney General

June 17, 1954

To Real Estate Commission  
Re: Transaction in another Jurisdiction

This will acknowledge receipt of your memorandum of June 16th in which was enclosed a copy of a letter by Mr. Goldsmith . . . concerning the part that the Neiditz Company took in the sale of the property known as Dryden Terrace Apartments, Orono, Maine. You state that there is no record in the Commission files of any license being issued to this company and Mr. Goldsmith inquires whether, if certain facts be true, the Commission will take action against this concern.

Section 3 of Chapter 75, R. S., provides that it shall be unlawful to act as a real estate broker or salesman without a license. Section 12 provides certain penalties for any violations of this chapter. It would therefore appear that there is no action that the Commission can take relative to this matter, as its