

MAINE STATE LEGISLATURE

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December 21, 1954

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To Adam P. Leighton, M. D., Secretary,
Board of Registration of Medicine
Re: Hospitals Practising Medicine

. . . In the main your problem has to do with physicians who have agreements with hospitals whereby the physicians conduct their professional duties in or about such hospitals and a portion of the fees payable to the doctors is taken by the hospitals.

We concur with the opinion of the Attorney General of Iowa in that arrangements whereby a hospital participates in the gross income of a doctor are such agreements that the hospital is then engaging in the practice of medicine without a license. However, as you are aware, such arrangements are frequently difficult of proof. We would suggest that it might be wise to amend your statutes by enacting into law provisions prohibiting those activities which you feel are objectionable.

We would draw your attention to Section 11 of Chapter 336 of the Public Laws of 1949, which is a section in the optometry law expressly prohibiting the type of arrangement which you question. Such a law might be adapted for your purposes with corrections made so as to satisfy your Board's wishes.

Another recommendation would be to insert in Section 6 of Chapter 61, as amended, a prohibition such as you desire. The prohibition against the practice of medicine without a license would, of course, run to the person committing such crime, in the instant case the hospital. Your Board would probably also wish to reach the offending physician, and we feel that an express provision in the law is easier to enforce than ephemeral interpretations of "unethical conduct", hence our suggestion of an insertion of such a provision in Section 6, to the effect that your Board may take steps upon proof to its satisfaction of a division of fees, or agreement to split or divide the fees, such as is contained in the Iowa law.

We are returning the bulletins issued by the College of American Pathologists and the American College of Radiology.

We are also enclosing a copy of Section 12 of Chapter 336, P. L. 1949. . .

James Glynn Frost
Deputy Attorney General

jgf/c