

MAINE STATE LEGISLATURE

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June 1, 1959

Perry D. Hayden, Commissioner

Institutional Service

James Glynn Frost, Deputy Atty Gen.

Attorney General

Transfer of Inmates Between State Institutions

We have your memo of May 21, 1959, in which you ask for an opinion relating to the transfer of inmates between state institutions. Your memo reads as follows:

"The Problem:

"Occasionally, a patient in one of the hospitals for the care of the mentally ill is found to be no longer psychotic but is mentally retarded to the degree that admission to Pineland Hospital and Training Center is indicated as advisable or a patient at Pineland Hospital and Training Center who is mentally retarded becomes psychotic to such a degree that admission to one of the hospitals for the mentally ill is indicated.

"The question:

"May such patients be transferred under the Revised Statutes of 1954, Chapter 27 Sec. 13 "Transfer of inmate to other institution; original sentence to continue" ? "

In regard to such transfers we draw your attention to an opinion of this office dated April 9, 1945, and issued to the then Superintendent of Pownal State School, now Pineland Hospital and Training Center. Page 29, O.A.G., 1945-46. The law is in substance the same today as it was in 1945 and we re-affirm that opinion for the reasons therein cited.

Applying that opinion to your question:

1. Inmates of Pineland Hospital and Training Center should not be transferred to a state hospital under the provisions of Chapter 27, section 13, R. S. of 1954.
2. Only such inmates as are committed to a state hospital and are serving sentences may be transferred to Pineland under the provisions of said section 13. This seems to be the case when section 13 is read in conjunction with sections 143 and 145 of Chapter 27.

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Section 145 being the general section setting forth those persons who may be committed to Pineland, does not specifically embrace patients of the state hospital.

"Whenever it is made to appear, upon application to the Judge of Probate for any county and after due notice and hearing, that any person resident in said county or any inmate of the state school for girls, the state school for boys, the reformatory for men, the reformatory for women, the state prison, the military and naval children's home, or any person supported by any town, is a fit subject for the Pownal state school, . . ."

Section 143 contemplates transfer of patients from a state hospital to Pineland.

"Section 143. Management; ages of inmates. - The Pineland state school, heretofore established at Pownal, in the county of Cumberland, shall be maintained for the care and education of idiotic and feeble-minded males and females, between the ages of 5 years and 55 years, except that idiotic and feeble-minded state paupers or patients transferred from either state hospital for the insane under the provisions of this chapter may be admitted after the above stated age. (R.S. c. 23, sec. 132. 1951, c. 84, sec. 3.)"

Such section when read in the light of section 13, indicates that only persons serving a sentence at a state hospital may be transferred to Pineland. Other persons would have to be committed upon application to the proper body in accordance with the general laws unrelated to transfers.

James Glynn Frost
Deputy Attorney General

JGF:GBH