

MAINE STATE LEGISLATURE

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32 M.P.S.A. 1601-4

March 8, 1978

To: Rita B. Obie, Executive Secretary, State Board
of Cosmetology

From: Kate Clark Flora, Assistant Attorney General

Re: Statutory per diem limitations on compensation of Board
members.

- You have asked for an interpretation of Title 32, § 1601(4)
which provides as follows:

The members of the Board shall receive as compensation for their services \$35 per day for no more than 18 days per calendar year, or, in the case of the chairman, for no more than 25 days per calendar year, and in addition thereto all necessary expenses incurred in the discharge of their duties whether or not compensated for said services. Expenses as related to duties out of the state shall be reimbursable for no more than 5 calendar days per calendar year unless approved in advance by the Governor.

Specifically your question is whether the five-day allotment referred to for out-of-state travel is included with the 18 or 25 days permitted by statute for which Board members and the chairman may be compensated. In my opinion any days used by Board members for out-of-state travel on Board business are included within the 18 or 25 days.

It is necessary, in construing a statute, to determine what the intent of the Legislature was in enacting the statute. Reggep vs. Lunder Shoe Products Company, 241 A.2d 802 (Me., 1968). In determining the intent of the Legislature, the language of the statute is looked to first, and if the language is clear, it is necessary to look no further. Lewiston-Auburn United Grocers Inc. v. Johnson, 253 A.2d 338 (Me., 1969). The language of § 1601 is

clear. It provides that members of the Board shall receive compensation for no more than 18 or no more than 25 days per calendar year. Where the Legislature has set a statutory maximum limit, any days used by Board members for performance of Board duties during the calendar year, whether they were used for in-state or out-of-state business, must be included within the 18 or 25 day total. The five-day limitation for out-of-state travel is addressed not to per diem compensation, but to reimbursement for expenses. This acts as a limitation on the general provision that expenses incurred by Board members are always reimbursable.

You indicate that the Board wishes to initiate legislation providing for more days per member per year, and indicate that if there is a special session coming up, the Board would like to put its legislation in then. The 108th Legislature has been in special session since the beginning of January and that session will be coming to an end very soon. Therefore, it is unlikely that you will be able to put in any legislation this session, but rather should plan to put in amending legislation in the next legislative session.

KATE CLARK FLORA
Assistant Attorney General

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