Caroline Hauenstein, R.N.,
Executive Secretary,
Indiana State Board of
Nurses' Registration and
Nursing Education,
307 Ober Building,
38 N. Pennsylvania St.
Indianapolis 4, Indiana.

Dear Miss Hauenstein:

I have your request for an official opinion which reads as follows:

"This board has been asked for a decision in relation to whether or not a registered nurse is permitted to administer a medication intravenously, if the doctor in charge of the patient has designated either by a written or verbal order that the medicine is to be given by the nurse.

"This particular request came from a director of a Visiting Nurse Association. The patient was in the home and it is possible that the patient would not be seen by the doctor for several days following the administration of the medicine. The director of the Visiting Nurse Association explained that there have been an increasing number of inquiries from local doctors about staff nurses administering intravenous medications. She was interested to know from the standpoint of protecting the patient and legal protection to her association whether an intravenous injection is recognized as a medical or nursing procedure. In answering the request, the director of the Visiting Nurse Association was advised that the organization withhold a decision on the policy pending your consideration of the matter.

"Will you please give an OFFICIAL OPINION on the following two questions:—

"1. Does the administration of a medication intravenously constitute medical or nursing practice?"
"2. If the nurse administers the medication under a written or verbal order from the physician in charge of the case, which specifies that the medication is to be given by the nurse, who would be held legally responsible?"

You asked first whether the administration of medication intravenously constitutes medical practice.

The practice of medicine for the purpose of licensure is defined by Section 8 of Chapter 169 of the Acts of 1897 as subsequently amended, same being Burns 63-1311. There is no indication that administration of medication intravenously is of such a nature under this definition that it would be such a practice of medicine that it could not be engaged in by a nurse under the direct supervision of a duly licensed physician and surgeon; that is, there is no statute specifically making the administration of medication intravenously by a nurse under the direct supervision of a physician and surgeon the practice of medicine in and of itself. See in this regard Burns 63-901 defining the practice of nursing. There is nothing in this definition which would necessarily exclude the administration of intravenous medication.

You inquire further concerning the legal responsibility of a nurse acting under doctor's orders to give intravenous medication. Generally, a physician is required to have the skill and knowledge of persons holding themselves out to be physicians in the locality in which he practices. He is likewise bound to practices that are generally accepted in the community in which he practices and like communities. Similarly, he is required to use care in the selection of assistants and the delegation of duties. See American Jurisprudence, Vol. 41, pages 204, 222, Physicians and Surgeons, Sections 86 and 110.

Thus if a physician should authorize a nurse to administer intravenous treatment under his direct supervision in the community where that practice is not generally accepted, he might well be liable for any resulting damage. Furthermore, if the nurse in question did not have the necessary knowledge and experience, he might be responsible for having selected an improper person.

Likewise, if a nurse should undertake to administer such treatment without the necessary experience and knowledge
or should perform her duties in that regard negligently, she might well be legally responsible.

In summation, I find no specific authority on the questions you ask but under general rules of law there is a possibility that the nurse or physician might be civilly liable under some circumstances.

OFFICIAL OPINION NO. 33

April 12, 1951.

Mr. Addison M. Dowling,
State Representative,
5159 Park Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your recent letter in which you make the following request:

"I respectfully request an official opinion from your office on the question as to whether or not, under the Indiana Constitution and other applicable Indiana Laws now in force, a member of the Indiana General Assembly can legally serve as a Special Judge or Judge Pro Tempore in a state criminal case and receive compensation for his services as such judge."

Before becoming involved too deeply in your question I think it is desirable to analyze the status and duties of special judges and judges pro tempore. The Supreme Court of Indiana, in the case of State ex rel. Hodshire v. Bingham, Judge (1941), 218 Ind. 490, 37 N. E. 2d 771, said:

"A judge pro tem is appointed for the term or some part thereof, during which time he exercises all the functions of the regular judge.

"A special judge is appointed to act in a particular case and his authority continues until the same is finally disposed of, unless the venue is changed."

See also 1950 Opinions of the Attorney General No. 69.