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OFFICIAL OPINION NO. 9

May 28, 1969

Mr. Kenneth R. Beesley
State Examiner
State Board of Accounts
Room 912 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Beesley:

This is in reply to your request for an Official Opinion on practices by hospitals established and operating under the 1903 Hospital Law, Burns' (1964 Repl.), Section 22-3101, *et seq.* and the 1917 Hospital Law, Burns' (1964 Repl.), Section 22-3115, *et seq.*, as indicated by your questions:

"1. Is it permissible for a county or city hospital to grant discounts to its employees, or to fix its rates for employees at less than those charged other patients for the same services?

"2. Is it permissible for a county or city hospital to grant discounts to members of the medical profession or to fix its rates for such persons at less than those charged other patients for the same services?

"3. If your answer to either question number 1 or question number 2 is in the affirmative, would such authority extend to the dependents of such persons?

"4. If your answer to either question number 1 or question number 2 is in the affirmative, would such authority extend only to routine services, such as room charges, or might it extend to other services, including prescription and non-prescription drugs, out-patient charges and similar services?

"5. If your answer to either question number 1 or question number 2 is in the affirmative, would such authority permit a hospital to make similar allowances, where an employee is treated or cared for by another hospital, and pay to such other hospital the allowances the employee would have received had he been a patient in the hospital where employed?"

The questions involve hospitals established under two separate Acts. Acts of 1903, Ch. 36, Sec. 7, as amended, and as found in Burns' (1964 Repl.), Section 22-3107, grants the authority to set charges that are customary in other first-class hospitals with the further authority to grade only the amounts charged according to the services rendered.

Acts of 1917, Ch. 144, Sec. 10, as found in Burns' (1968 Supp.), Section 22-3119, adds the specific requirement that equal rights be granted to all with special privileges to none. The amount that can be charged must be a reasonable compensation for the services rendered based on the rules and regulations of the board.

It is well established in this state that counties are a political subdivision of the state and, as such, act for the state under powers delegated by the Legislature. State, *ex rel.*, Board of Commissioners of Hendricks County v. Board of Commissioners of Marion County (1908), 170 Ind. 595, 85 N. E. 513. A political subdivision of the state can exercise only the powers expressly granted to it under the organic act by which it is created; those necessarily implied powers incident to the powers expressly granted; and, those powers essential to the declared objects and purposes of the corporation.

The Legislature has given the power to charge for services rendered with the right to vary the charges based only on the amount or type of the services rendered. No authority has been given to waive charges (indigent patients excluded); nor to charge less to certain patients for the same services rendered to other patients.

Therefore, the specific answers to your questions are as follows:

1. As to question number one, in my opinion, it is not permissible for a county or city hospital to grant discounts to its employees, or to fix rates for employees that are less than those charged other parties for the same services.

2. In answer to your second question, it is likewise not permissible for a county or city hospital to

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grant discounts to members of the medical profession or to fix rates for them less than those charged other parties for the same services.

Since the answer to questions one and two are in the negative, it is not necessary to answer questions three, four and five.