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CORONER, ACTING COUNTY — MAY BE COMPENSATED FOR MEDICAL CARE TO INDIGENT PERSON — PAID FROM POOR RELIEF FUNDS IF PROPER PROCEDURE FOLLOWED TO OBTAIN CARE.

SYLLABUS:

An acting county coroner who has furnished medical care to an indigent person may be compensated therefor from poor relief funds if the necessary procedure for obtaining such care has been followed.

Columbus, Ohio, December 3, 1942.

Hon. Richard E. Hole, Prosecuting Attorney,
Greenville, Ohio.

Dear Sir:

Receipt is acknowledged of your letter of recent date, which reads:

“The local Relief Director, Mr. Karl Schmallenberger, has asked me to request your office for an informal opinion concerning the legality of payments to a doctor who rendered services to indigent persons and who is acting Coroner of Darke County.

Due to the number of doctors inducted into the Armed Forces of the United States, it is nearly impossible to have the indigent persons go to a doctor other than the Coroner and Mr. Schmallenberger thought it might be possible, under the present emergency, that such payments would be approved.”

Pursuant to Section 3391, General Code, the Legislature has defined the term “poor relief” as including “medical care”. Your inquiry concerns the legality of payments by the relief authorities to a physician who was the acting coroner of Darke County at the time he rendered medical services to indigent persons entitled thereto.

In passing on this matter it has been necessary to first determine whether there is any statutory enactment which precludes a physician from rendering professional services to persons while holding the office of county coroner. I am not, at this time, considering any of the provisions of H. B. No. 675 relating to the administration of poor relief (118 O.L. 710). This act will hereinafter be referred to.

The office of coroner is a very ancient one and it is said to be of equal antiquity with that of the sheriff. At the present the coroner can only exercise such powers and jurisdiction as are provided by statute and his duties are largely ministerial in character but certain of them are, nevertheless, in a limited sense quasi judicial.

Prior to the time of enactment into its present form, Section 2856-3, General Code provided that:

“In counties having a population according to the last federal census of 100,000 or more, no person shall be eligible to the office of coroner except a licensed physician of good standing in his profession.”

There being no provision therein respecting eligibility in counties having a smaller population, until the aforesaid act was amended (117 O.L. 44), it followed that any person eligible generally to hold public office was eligible for the office of coroner. But, as presently in force, no person shall be eligible to the office of coroner in any county except a licensed physician, or a person who shall have previously served as coroner prior to his election.

The Legislature has apparently recognized that in those counties in this state having a population according to the last federal census of 400,000 or more, the demands upon the time of the coroner would be much more extensive than in the far greater number of counties not having such population. This is evident by reason of the right of the coroner to appoint an assistant, which authority is found in Section 2856-2, General Code. A further distinction is recognized in view of the additional provisions of this same section authorizing the coroner to appoint an official stenographer-secretary when the population of the county is 100,000 or more.

It may be said that the principal duties of the coroner relate to the holding of inquests for which he is allowed certain statutory fees. In counties of less than 400,000 in population he must report to the county commissioners the amount of fees collected under all sections of the General Code. Whereas in counties having a population in excess of 400,000 he receives a salary of \$6,000 per annum and must pay over to the treasurer of the county all fees to which he is entitled under all sections of the General Code forthwith upon receipt of same. The Legis-

lature has also apparently recognized that in certain counties the services rendered by the coroner would be of such a limited nature as to warrant the fixing of a minimum of \$150.00 per annum as the compensation to be received by him. Section 2866-1, General Code, with respect thereto, provides:

“In counties having a population, according to the last federal census, of less than four hundred thousand the total compensation paid to the coroner as fees, under all sections of the General Code, in no case shall exceed five thousand dollars per annum or be less than one hundred and fifty dollars per annum. If the fees in any one year are less than the minimum compensation allowed by law then such coroner shall be allowed the difference up to one hundred and fifty dollars to be paid by the county commissioners out of the emergency or contingent fund.”

In considering the foregoing and other sections of the General Code relating to the duties and powers of a county coroner, I am forced to conclude the Legislature has not enacted any law which specifically precludes a physician who holds the office of coroner from practicing his profession while not engaged in the performance of such duties as are imposed upon him by law. With this in mind, I pass now to the question which you have asked.

I have examined the provisions of the poor relief act, being Sections 3391 to 3391-12, inclusive, General Code. I find nothing therein which I can consider as precluding the acting coroner of Darke County from rendering the medical care to which an indigent person may be entitled under the provisions of such act. Should there be some question as to what constitutes “medical care” as defined by Section 3391, General Code, how the same is dispensed and the limitations imposed before the person furnishing same can be compensated therefor, I direct your attention to my Opinion No. 2648, found in 1940 Opinions of the Attorney General, Vol. II, at page 781.

It might be well to note that pursuant to the provisions of Section 3391-3, General Code, the state director of public welfare is authorized:

“ * * * to adopt and promulgate rules governing the administration of poor relief by local relief authorities. Unless otherwise provided by law, all such rules shall be promulgated by mailing a certificate copy thereof to each local relief authority and filing a certified copy thereof in the office of the secretary of state.”

I have made inquiry at the office of the Secretary of State and have been informed no rules have been filed there with respect to the administration of the poor relief law. In the absence of any rule on the matter, it, therefore, becomes unnecessary to consider the validity or effect of same in answering your question.

In view of the foregoing and in specific answer to your inquiry, it is my opinion that an acting county coroner who has furnished medical care to an indigent person may be compensated therefor from poor relief funds if the necessary procedure for obtaining such care has been followed.

Respectfully,

THOMAS J. HERBERT
Attorney General.