

1295-34 is the section which pertains to the matter stated in question No. 3. That section in part provides:

“The provisions of this act shall not apply (a) to physicians or surgeons practicing under authority of licenses issued under the laws of this state for the practice of medicine or surgery.”

While other parts of the optometry act, particularly section 1295-22, make it unlawful for any person to practice or hold himself out as a practitioner of optometry without a license from the state board, yet the provisions of section 1295-34, above quoted, certainly have the effect of exempting physicians from all of the provisions of the entire act, and the answer to your third question is also in the negative.

Respectfully,

JOHN G. PRICE,

*Attorney-General.*

1475.

JUVENILE COURT—PERSON COMMITTED BY SAID COURT TO BOARD OF ADMINISTRATION FOR EXAMINATION BY BUREAU OF JUVENILE RESEARCH—WHERE PERSON DECLARED INSANE AND ASSIGNED TO HOSPITAL FOR INSANE—LEGALLY IN SAID INSTITUTION—CLOTHING FURNISHED SUCH PERSON NOT CHARGEABLE AGAINST COUNTY OF SAID PERSON'S LEGAL RESIDENCE UNDER SECTION 1962 G. C.

1. *When a person has been committed by the juvenile court to the board of administration for examination by the bureau of juvenile research and has by that bureau been declared to be insane and recommended to be assigned to a hospital for the insane for observation and treatment, such person is legally in said institution.*

2. *Clothing furnished such person so received by the superintendent of an institution for the insane may not be charged against the county of said person's legal residence under section 1962 G. C.*

COLUMBUS, OHIO, August 3, 1920.

*Ohio Board of Administration, Columbus, Ohio.*

GENTLEMEN:—The receipt is acknowledged of your recent request which is as follows:

“One E. M. was recently committed by the juvenile court of Cuyahoga county to the board of administration for examination at the bureau of juvenile research.

The bureau diagnosed the case as psychopathic, and recommended that the boy be assigned to the Cleveland State Hospital for treatment and further observation.

Under the laws of this state all commitments to our hospitals for the insane must be made through the probate courts; the probate judge must see that each patient he commits has proper clothing, which shall be paid for by the county.

In this particular case the boy did not have proper clothing upon his admission to the hospital, and the question has arisen as to whether or not the superintendent of the hospital could supply the clothing and charge it

to Cuyahoga county, since he was not sent to the hospital through the channels of the probate court.

We respectfully request your opinion as to whether or not Cuyahoga county is liable for the clothing furnished this patient."

The action of the juvenile court in this matter was duly had under the law as found in sections 1695 G. C. et seq.

The probate judge in many counties of the state acts as the juvenile court judge. In this case he would have been acting as juvenile judge in a county where he is such court, and acting as such juvenile judge and having discovered the insanity of the boy he could have of his own motion transferred this action to the jurisdiction of the probate court which he also has and disposed of it as the law governing the insane directs the probate court and then a charge for clothing furnished could have been made against the county of the boy's residence since the law has no apparent concern with the age of the insane but with their ability to pay for their own proper clothing.

You are doubtless familiar with sections 1891 et seq., as found in 108 O. L., part I. page 552. in which the laws relating to the admission and disposition of insane persons are by reference therein expressly applied to those committed to the institutions for the feeble-minded by the board of administration, however they may be received.

Had the boy spoken of in your letter been committed to an institution for the feeble-minded, then the cost of necessary clothing would be a proper charge against the county of his legal residence under the law as found therein, since clothing is expressly named as an item of expense in said statutes. However, in the case at hand the commitment was made to the Cleveland State Hospital after examination by the bureau of juvenile research and the boy not having been originally under the jurisdiction of the probate court, but under that of the juvenile court, which jurisdiction was not being exercised by said probate court, of Cuyahoga county, there is now no law by which the cost of the clothing supplied may be charged to Cuyahoga county.

Section 1815-12 G. C., as amended 108 O. L. 552, reads in part as follows:

"\* \* \* When any person committed to an institution under the control and management of the Ohio board of administration, other than an institution for the feeble-minded, is transferred or removed, as provided by law by said board of administration from such institution to an institution for the feeble-minded, the county from which said person was committed shall be liable for the support of such person while in said institution for the feeble-minded, as hereinabove provided, and to the same extent as if such person had been originally committed from said county to said institution for the feeble-minded."

Should the further observation of this patient show the board that his better care and development may be had at an institution for the feeble-minded, then all costs had for his clothing become a charge against the county of his legal residence. Failing this, the county may not be charged for the clothing which has been furnished.

An exhaustive search of all the laws on the subject reveals no provision that will charge clothing furnished to this boy under circumstances as stated in your communication, to the county of his legal residence except when, as here pointed out, he becomes an inmate of an institution for the feeble-minded.

Section 1962 G. C. which authorizes the probate court to supply clothing qualifies that authority in the following terms, to wit:

"If not otherwise furnished, the probate judge shall supply each patient sent to a hospital, for the insane with proper clothing, which shall be paid for

on his certificate and the order of the county auditor from the county treasury."

In this case the clothing has been otherwise furnished.

If it were possible to have the probate court assume or acquire jurisdiction in this case, a contingency untenable, the language of section 1962 supra makes a charge for clothing against the county a matter of doubt. The juvenile court has acquired jurisdiction. If the commitment it made is temporary it still has control of the case; if permanent the board of administration obtains control over the further disposition of the boy and the probate court by reason of the proceedings had may not now have jurisdiction of the case.

Had this boy's mental condition been made apparent to the juvenile court when he first came under its consideration said court could have turned him over to the probate court for disposition under the law governing the insane.

In the third paragraph of your letter you seem to believe that all cases of insanity must of necessity be for the disposition of the probate court. This case as it has developed is one that may be noted as an exception to your statement, and as it is herein pointed out, this patient is properly in an institution for the insane in compliance with law, where his further treatment and observation may suggest to the board a proper and final disposition of his case to his advantage.

Your question therefore must be answered in the negative.

Respectfully,

JOHN G. PRICE,

*Attorney-General.*

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1476.

APPROVAL, BONDS OF MADISON TOWNSHIP RURAL SCHOOL DISTRICT IN AMOUNT OF \$50,000.

COLUMBUS, OHIO, August 4, 1920.

*Industrial Commission of Ohio, Columbus, Ohio.*

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1477.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN LUCAS, SANDUSKY, PAULDING AND VAN WERT COUNTIES.

COLUMBUS, OHIO, August 4, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*