

where a high school pupil attends a different public school than the one to which he is assigned, as provided by Section 7764, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1630.

HOSPITAL SERVICE—CONTRACTS TO PROVIDE THEREFOR TO
GENERAL PUBLIC, INDIVIDUALS OR GROUPS NOT PROHIBITED
BY STATE LAWS PERTAINING TO INSURANCE WHEN.

SYLLABUS:

By virtue of the provisions of section 669 of the General Code, none of the laws of this state regulating or pertaining to insurance applies to contracts for the furnishing of hospital service to the general public, individuals or groups, for a certain stipulated charge per year, so long as such contracts are made only with persons for whom such service is to be rendered who are residents of the county where the hospitals or sanatoriums in which such service is to be furnished are located.

COLUMBUS, OHIO, September 26, 1933.

HON. CHARLES T. WARNER, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication which reads in part as follows:

“I am submitting herewith for your determination the question whether or not hospital service as proposed to be rendered by the Cleveland Hospital Council, or some agency thereof, comes within the province of insurance.

A group of men from Cleveland and Akron have submitted the proposition to me, and I should like to be fortified with your opinion as to whether or not the procedure which they propose to follow in selling hospital service to the general public or to groups, will be in violation of the insurance laws, or whether such service must be classed as insurance and come within the provisions of our insurance statutes. An early opinion in this matter will be appreciated.”

Under this plan the hospitals represented by the Cleveland Hospital Council propose to offer to the general public a program of group hospitalization. It is proposed that a corporation not for profit be organized and that contracts be entered into between such corporations, as agent for said hospitals, and persons purchasing such hospital service, whereby such persons will be entitled, upon the payment of an annual charge, to hospital service in any of the participating hospitals for a period not to exceed a certain number of days in the year for which such charge is made. The proposed contract provides that this hospital service shall include board and bed in a semi-private room or ward, general nursing service, X-ray service, operating room service, and ordinary drugs, dressings and medicines, but does

not include hospitalization for contagious diseases, mental diseases, maternity cases, or injuries or diseases for which hospitalization is available without cost to the patient under any laws. This service will be available only to employed persons in groups of ten or more, all of which persons in each group shall be employed by the same employer.

Sections 665, 666 and 669, General Code, read as follows:

Section 665.

"No company, corporation, or association, whether organized in this state or elsewhere, shall engage either directly or indirectly in this state in the business of insurance, or enter into any contracts substantially amounting to insurance, or in any manner aid therein, or engage in the business of guaranteeing against liability, loss or damage, unless it is expressly authorized by the laws of this state, and the laws regulating it and applicable thereto, have been complied with.

Section 666.

"No company, corporation or association engaged in the business of providing for the payment of the funeral, burial or other expenses of deceased members, or certificate holders therein or engaged in the business of providing any other kind of insurance shall contract to pay or pay such insurance or its benefits or any part of either to any official undertaker or to any designated undertaker or undertaking concern or to any particular tradesman or business man, so as to deprive the representative or family of the deceased from, or in any way to control them in, procuring and purchasing such supplies and services in the open market with the advantages of competition, unless expressly authorized by the laws of this state and all laws regulating such insurance or applicable thereto have been complied with."

Section 669.

"No law of this state pertaining to insurance shall be construed to apply to the establishment and maintenance by individuals, associations or corporations, of sanatoriums or hospitals for the reception and care of patients for the medical, surgical or hygienic treatment of any and all diseases, or for the instruction of nurses in the care and treatment of diseases and in hygiene, or for any and all such purposes, nor to the furnishing of any or all services, care or instruction in or in connection with any such institution, under or by virtue of any contract made for such purposes, with residents of the county in which such sanatorium or hospital is located."

It will be seen from these three sections, which, in substantially the same language, were formerly contained in section 289 of the Revised Statutes, that while contracts of this nature which provide for the payment of funeral, burial or other expenses of deceased persons, or the payment of any of the benefits of any other kind of insurance to any designated undertakers, tradesmen or business men, so as to deprive the representative or family of the deceased of procuring and purchasing such supplies and services in the open market, as well as all other contracts substantially amounting to insurance, are prohibited unless expressly authorized by statute and unless all laws applicable thereto are complied with, the legislature expressly provided that neither sections 665 and 666, General Code, nor any other laws pertaining to insurance are to be construed to apply to the

furnishing of hospital service in hospitals or sanatoriums under or by virtue of any contract therefor so long as such contracts are made with residents of the county in which such hospitals or sanatoriums are located. In view of the provisions of section 669, General Code, it is unnecessary to determine whether such contracts constitute insurance.

I am of the opinion therefore that, by virtue of the provisions of section 669 of the General Code, none of the laws of this state regulating or pertaining to insurance applies to contracts for the furnishing of hospital service to the general public, individuals or groups, for a certain stipulated charge per year, so long as such contracts are made only with persons for whom such service is to be rendered who are residents of the county where the hospitals or sanatoriums in which such service is to be furnished are located.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1631.

APPROVAL, LEASE TO RESERVOIR LAND IN MERCER COUNTY,
OHIO, FOR THE RIGHT TO OCCUPY AND USE FOR PLEASURE
RESORT AND CLUB HOUSE PURPOSES.

COLUMBUS, OHIO, September 26, 1933.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication over the signature of the chief of the bureau of inland lakes and parks in the conservation division of your department, submitting for my examination and approval a reservoir land lease in triplicate executed by the conservation commissioner to The Bing Club of Dayton, Ohio. By this lease, which is one for the stated term of fifteen years and which provides for an annual rental of sixty dollars, there is leased and demised to The Bing Club the right to occupy and use for pleasure resort and club house purposes two small islands in Lake St. Marys, commonly known as "Anise Island", in the southwest quarter of the southeast quarter, and "Sycamore Island", in the southwest quarter of the southeast quarter of section 18, town 6 south, range 3 east, in Mercer County, Ohio.

Upon examination of this lease, I find that the same has been properly executed by the conservation commissioner and by the lessee above named acting by the hand of one J. A. Wessalosky, pursuant to the authority of a resolution of the board of directors of The Bing Club duly adopted under date of September 18, 1933.

Upon examination of the provisions of this lease and of the conditions and restrictions therein contained, I find that the same are in conformity with section 471, General Code, under the authority of which this lease is executed, and with other statutory enactments relating to leases of this kind.

I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof.

Respectfully,

JOHN W. BRICKER,
Attorney General.