

OPINION NO. 66-157

Syllabus:

There is no statutory justification for a county hospital board of trustees giving an additional sum of money to key personnel, who have been fully paid for services, as an "Extended Service Benefit."

To: Richard E. Parrott, Union County Pros. Atty., Marysville, Ohio
By: William B. Saxbe, Attorney General, September 15, 1966

Your request for my opinion reads as follows:

"May a Board of Trustees of a County Hospital authorize its administrator to enter into an agreement with certain of the key personnel of the hospital to provide that such employees, after completing a certain period of full time employment, and having been fully paid therefore, shall then receive an additional stated sum of money for having remained in the employment of the hospital throughout such period, such additional payment not to be considered as earnings, but as an "Extended Service Benefit"?"

Section 339.06, Revised Code, providing for the powers of the Board of Trustees of a County Hospital, states in pertinent part:

"* * * The board of county hospital trustees shall have the entire management and control of the hospital and shall establish such rules for its government and the admissions of persons as are expedient.

"* * * * *"

"The board of county hospital trustees shall employ an administrator, and upon the nomination by such administrator, shall confirm the employment of such physicians, nurses, and other employees as are necessary for the proper case, control, and management of such hospital and its patients, and the board of county hospital trustees shall fix their respective salaries and compensation."

Section 339.06, supra, delineates the broad, discretionary powers of the county hospital board of trustees. But these powers are by no means absolute. If your question were answered positively, the board would be given power beyond its statutory scope. The word "key" in your

inquiry suggests that the board would be given arbitrary, discriminatory power in determining who comprises this category. Moreover, there is a complete lack of statutory authority for this type of "benefit" plan. In an opinion of my immediate predecessor, Opinion No. 3139, Opinions of the Attorney General for 1962, page 545, the question, "Can employees of a county hospital be granted a discount when they are patients?" was answered, in pertinent part, as follows:

"* * * * *

"* * * In recent times, however, employee discounts have become a 'fringe benefit' in many businesses. A fringe benefit is defined in Merriam-Webster's New International Dictionary (3rd Ed.) as follows:

"'An employment benefit (as a Pension, a paid holiday, or health insurance) granted by an employer that involves a money cost without affecting basic wage rates.'

"* * * * *

"Such fringe benefits as may exist in public employment, however, are governed by statute. For example: pensions, Section 145.01 et seq., Revised Code; paid holidays Section 325.19, Revised Code; sick leave, Section 143.29, Revised Code. I have been unable to find any statutory authority for employee discounts.

"* * * * *

I am of the opinion that the generic term "fringe benefit" includes the specific one "Extended Service Benefit," as outlined in your request.

It is, accordingly, my opinion and you are hereby advised as follows:

There is no statutory justification for a county hospital board of trustees giving an additional sum of money to key personnel, who have been fully paid for services, as an "Extended Service Benefit."