

1281.

APPROVAL, BONDS OF CLARK COUNTY, \$50,000.00, TO ERECT AN ANNEX TO CHILDREN'S HOME.

COLUMBUS, OHIO, March 18, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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1282.

COUNTY AUDITOR—AUTHORITY TO DISCHARGE PERSONS FROM COUNTY JAIL DISCUSSED.

*SYLLABUS;*

*In case of commitment to jail for failure to pay fine under section 12694, the county auditor cannot legally discharge such person from jail under the provisions of section 2576 G. C.*

COLUMBUS, OHIO, March 19, 1924.

HON. H. M. PLATTER, *Secretary State Medical Board, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your recent communication as follows:

“An auditor of one of the counties of Ohio recently released two chiropractors sentenced to the jail of the county for non-payment of fines and costs assessed against them. The men convicted declined to pay their fines of twenty-five dollars each and elected to serve forty-one days in the county jail instead.

The statute under which the auditor attempted to proceed is section 2576, which provides a manner by which the county auditor may discharge a person confined for non-payment of a fine to the county. Section 12699 provides that the fines assessed for violation of the Medical Practice Act shall be paid to the State Medical Board.

The department is of the opinion that the action of the auditor is illegal and desires an opinion covering the subject.”

Section 2576, General Code of Ohio,, provides :

“The county auditor may discharge from imprisonment any person confined in the county jail for the non-payment of a fine or amercement due the county, except fines for contempt of court or an officer of the law, when it is made clearly to appear to him that the fine or amercement cannot be collected by such imprisonment.”

It will be noted that the authority therein conferred upon a county auditor to discharge a person is limited to those cases in which one is imprisoned for the non-payment of a fine “due the county.”

In an opinion found in Opinions of the Attorney-General for 1921, at page 985, it was held :

"In case of such commitment (under the Crabbe act) the county auditor cannot legally discharge such person from the county jail under the provisions of section 2576 G. C."

Section 12694, General Code of Ohio, as far as pertinent, provides:

"Whoever practices medicine or surgery, or any of its branches before obtaining a certificate from the state medical board in the manner required by law, or whoever advertises or announces himself as a practitioner of medicine or surgery, or any of its branches, before obtaining a certificate from the state medical board in the manner required by law; or whoever opens or conducts an office or other place for such practice before obtaining a certificate from the state medical board in the manner required by law; or whoever not being a licensee conducts an office in the name of some person who has a certificate to practice medicine or surgery, or any of its branches; or whoever practices medicine or surgery, or any of its branches, after a certificate has been duly revoked, or, if suspended, during the time of such suspension, shall, for the first offense be fined not less than twenty-five dollars nor more than five hundred dollars, and for each subsequent offense be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail or workhouse not less than thirty days nor more than one year, or both."

Section 12699, General Code of Ohio, provides:

"All fines collected under the next five preceding sections shall be paid to the state medical board."

Section 12694 is one of the five preceding sections mentioned in section 12699.

By reference to sections 12694 and 12699, it is apparent that no part of the fine is due the county.

It is therefore my opinion that in case of commitment to jail for failure to pay fine under section 12694, General Code, the county auditor cannot legally discharge such person from jail under the provisions of section 2576 General Code.

Respectfully,

C. C. CRABBE,  
*Attorney-General.*

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1283.

APPROVAL, BONDS OF CLARK COUNTY, \$5,400.00, TO IMPROVE BRIDGES ON I. C. H. NO. 197, SECTIONS "G", "F-H".

COLUMBUS, OHIO, March 19, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*