

Sisters of Charity, Registration of as Nurses. Registration, of Sisters of Charity as Nurses. Training School for Nurses, Under Sisters of Charity. Nurses, Training School for.

Sisters of charity in a hospital, though nurses and engaged in that calling, but making no pretense of being registered nurses, may lawfully pursue their calling without complying with the provisions of Chap. 50, Laws 1913.

A hospital which maintains a training school for nurses, having a number of sisters, nurses in such hospital, assisting in teaching in such school, must, in order to be recognized as an accredited school, comply with Rule 10, adopted by the Montana State Board of Examination and Registration for Nurses.

November 14th, 1913.

Hon. Dan J. Heyfron,
County Attorney,
Missoula, Montana.

Dear Sir:

I am in receipt of your letter of recent date, from which I gather the following statement of facts: St. Patrick's Hospital of Missoula is conducted by the Sisters of Charity, about eight of whom are nurses, but confine their field of operations to nursing in the hospital, and do not take special cases there for pay. They are graduated and experienced nurses, but do not assume the title of registered nurses, nor do they hold themselves out to be registered nurses. Under the rules of the order to which they belong they are moved from place to place, as, for instance, from a hospital in one state to a hospital in another. The question is whether under these facts such nurses must be registered under the provisions of Chap. 50, Session Laws of the Thirteenth Legislative Assembly. As a general proposition it may be stated that it is essential to the validity of all laws relating to the police power of the state that they shall operate in their requirement with substantial equality. It has long been recognized that where a law treats all persons of the same class alike upon a matter that the state undertakes to regulate, such a law is not subject to attack upon the ground that it invades any constitutional right; hence, to be a registered nurse it is essential that the provision of this chapter with reference to registration be complied with, but in the instant case these sisters do not hold themselves out as falling within the class for which licenses are required; though they are nurses, and engaged in that calling, they make no pretense of possessing special qualifications or that they are entitled to the distinction of being registered nurses; hence, in my judgment, they may lawfully pursue their calling without complying with the provisions of this chapter. Strictly speaking, a license does not necessarily involve personal discrimination, but as pointed out by Frund on Police Power, Sec. 639, there are licenses which proceed upon the idea of discrimination, either according to the circumstances of specific cases or according to personal differences:

"Since the requirement in these cases has the effect that what one person is allowed to do another person may be forbidden, the principal of equality in its simplest form is broken through, and the question is whether some higher form of equality is not recognized in the justice of the discrimination, or whether the inequality is not a necessary condition of the public welfare."

The business or occupation of nursing may be said to affect in some degree the life, health and security of the public, and in this sense undoubtedly becomes a proper subject for police regulation, and while it is true that ordinarily a person may pursue the vocation of nursing without let or hinderance, yet, if a title be assumed which would give the holder thereof the distinction of possessing peculiar qualifications, then such calling cannot be claimed as a matter of

constitutional right, but the holder thereof must comply with the provisions of the law regulating the calling of such persons as bear the title.

Idem. 639, 492-495.

A second proposition is contained in your letter; you state that this hospital also maintains a training school for nurses, and the eight sisters, who are nurses in the hospital, assist in the teaching in the school. Attention is called to Rule 10, adopted by the Montana state board of examination and registration for nurses, which rule is as follows:

"The superintendent of nurses and head nurses must be graduated nurses, and registered nurses."

And the question arises as to whether this board can thus arbitrarily designate such nurses as "head nurses," and thus compel them to register in order to have the school recognized as an accredited school. Since the object of this act is the regulation of the business or profession of nursing, and subject matter which undoubtedly falls within the proper exercise of the police powers of the state, and since the act itself provides for a board of examiners for nurses, and provides for a schedule of subjects upon which applicants shall be examined to qualify for registration under the act, and further makes the president of this board an inspector of training schools, and places general supervisory control in this board over training schools in this state, I am of the opinion that the board is within its rights in making such a requirement as is contained in Rule 10. While it is true that the training school of this hospital may comply with the requirements regarding the course of instruction to be given pupils, yet from the mere fact that the curriculum of this school is as the board has by rule prescribed, it does not necessarily follow that the teachers and instructors of this institution are qualified to teach the various subjects required by the act and the rules of the board, and I am of the belief that this board is not required to recognize such school as an accredited school, unless every reasonable rule and requirement of this board is complied with.

You are, therefore, advised that if this training school seeks recognition as an accredited school, the rules of the board must be complied with.

Yours very truly,

D. M. KELLY,
Attorney General.