

**Opinion No. 149.**

**Soldiers' Home—Regulations, Soldiers'  
Home—Board of Managers, Soldiers'  
Home.**

Held: Any member of soldiers' home wilfully violating regulations promulgated by board of managers, is subject to expulsion by the commandant, subject to members' right to appeal to the board of managers.

October 22, 1943.

Mr. H. R. Hampton  
Commandant  
Montana Soldiers' Home  
Columbia Falls, Montana

Dear Mr. Hampton:

You request my opinion as to your authority to expel a member of the

Montana Soldiers' Home, who, by reason of habitual use of intoxicating liquor, frequently absents himself from the home, without permission.

The home was established in compliance with what now appears as Section 1526, Revised Codes of Montana, 1935, the United States government having granted aid in the establishment thereof.

The Act of Congress granting this aid, now appearing as Section 134, Title 24, Federal Code Annotated, provided the home shall be exclusively under the control of the state authorities.

Section 1533, Revised Codes of Montana, 1935, directs the board of managers of the home to formulate and publish all necessary rules and regulations, to be reasonably and impartially enforced by the commandant of the home, subject to appeal to the board of managers.

Acting under the authority of the foregoing section, and effective as of August 15, 1941, the board of managers promulgated rules, including the following:

"No member shall leave the Home without first obtaining permission.

"Habitual intoxication or disobedience of orders shall bring upon any member summary discharge from the Home.

"Any member of the Home may be expelled by the Commandant, or the Board of Managers, for a willful violation of the rules and regulations. In the case of expulsion by the Commandant the matter may be subject to review by the Board of Managers. Any member who has been expelled by the Commandant, may be re-admitted by application to the Board of Managers, provided he can satisfy the Board that he will in the future conduct himself properly and observe and obey the rules and regulations of the Home.

"Furloughs and passes may be granted by the Commandant to members of the Home, whenever he may deem it necessary or proper. Any member absent without leave for ten days shall have forfeited his right to return and shall not be readmitted except upon application approved by the Commandant, to the Board of Managers, and favorable action thereon. Absences without leave shall be punished as are other offenses."

These rules and regulations are reasonable and are necessary, in order that the home be properly conducted and that discipline may prevail. The members, other than women, are ex-service men and are familiar with the need of discipline and strict observance of rules and regulations. The rules and regulations are within the authority conferred upon the board of managers by the provisions of Section 1533, Revised Codes of Montana, 1935, above cited.

It must therefore follow that any member wilfully violating these rules and regulations is subject to expulsion by the commandant, subject, of course, to the members' right to appeal to the board of managers.

While not necessary to a determination of the question, it is to be noted Section 1535, Revised Codes of Montana, 1935, providing who are eligible to admission to the home, specifically provides the benefits of the home shall not be extended to any one who has been an habitual drunkard.

You also ask if you have any authority to compel a guardian appointed for this particular member, or the court in which the guardianship is pending, to take care of him. You have no such authority. These are matters for the guardian to decide, under the guidance of the court.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General