

OPINION
59-53

May 1, 1959 (OPINION)

COUNTIES

RE: General Provisions - Mileage of Officials - Public Health Nurses

This is in reply to your request for an opinion on the question whether section 11-1015 as amended by House Bill 631 or section 23-1410 as amended by House Bill 767 governs and controls mileage allowances for public health nurses.

Section 11-1015 as amended substantially provides that "unless otherwise provided by the laws of this state, every county official whether elective or appointive, . . . shall be allowed . . . ten cents per mile when such travel is by motor . . ." This bill was approved March 15, 1959 and was an emergency.

Section 23-1410 as amended substantially provides that ". . . the board of health shall also determine the amount of mileage for the necessary travel of the district full time health officer and his assistants not to exceed eight and one-half cents per miles." (Underscoring ours.)

Basically nursing is a profession. A nurse while engaged in her profession and performing services therein on a full-time basis for a county is considered a county official. As such, a nurse is entitled to mileage at ten cents per mile under section 11-1015 as amended.

Where the county is within a health district or is a part of a health district there appears to be on first impression some question whether or not the nurse is a part of the health district so as to bring her under section 23-1410.

On closer examination of this statute it is noted that the mileage allowance is designed primarily for the health officer and his assistants. A nurse is not automatically an assistant of the health officer even though her work overlaps or runs along the same lines and sometimes is in conjunction with the health district program. It stand to reason that they have a mutual interest and are endeavoring to accomplish the same objectives. However, where a county is within an organized health district and the nurse is assigned, with the county commissioners approval, to the county and is given responsibilities commensurate to her profession she is in effect a county official and as such is entitled to mileage as provided for in section 11-1015 as amended by House Bill 631.

A nurse not assigned to any county but operating solely under the health district program on a statewide basis or as an assistant to the health officer, such nurse would come under section 23-1410 as amended by House Bill 767.

It is our opinion that nurses assigned, with the approval of the county commissioners, to a county and given general responsibilities

commensurate to her profession and performs such services for the county is considered a county official even though the county is within an organized health district.

The county commissioners are most likely in the best position to know whether or not such nurse is assigned to their county so as to be considered the county nurse.

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