

ALABAMA STATE BOARD OF MEDICAL EXAMINERS
Office of General Counsel

October 23, 1987

Dear _____ :

After a review of your request of September 17, 1987, the Board of Medical Examiners has requested that I provide you with the following response.

It is the opinion of the Board of Medical Examiners that when a physician enters into a physician-patient relationship and assumes responsibility for a patient's medical care that physician should, at a minimum, see the patient, establish a diagnosis, and prescribe a therapeutic regimen consistent with the patient's medical condition. If the physician in the fact situation you described is to assume responsibility for the patient's care then, in the opinion of the Board, that physician enters into a physician-patient relationship with that patient.

It is the further opinion of the Board that a physician may properly be compensated for actual services rendered provided that such compensation is not depended upon or related to referrals made by or to the physician. Thus in the example you cite, if the physician is compensated at a daily or hourly rate for services actually performed such compensation would not violate §34-24-360(10), Code of Alabama, 1975. On the other hand, a capitation or percentage payment to the physician based upon the number of patients referred or a percentage of the income to the home health agency generated by the patient would, in the opinion of the Board, clearly constitute the divisions of fees for bringing or referring a patient in violation of the aforementioned code section.

I hope that this information has been responsive to your request. If I can be of further service to you in this or any other matter, please feel free to call on me.

Yours sincerely,

/s/ Wendell R. Morgan

Wendell R. Morgan
General Counsel

WRM:skf