

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

In re: The Petition for Declaratory
Statement of:

DR. GARY R. JOHNSON, M.D.,
and THE GREEN CLINIC, a
Partnership of Professional
Associates,

Petitioner.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (hereinafter Board) pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on November 30, 1990 for the purpose of considering the Amended Petition for Declaratory Statement filed by The Green Clinic and Gary R. Johnson (hereinafter Petitioners). No person or entity sought to intervene as a party. Having considered the petition, the other evidence and documents of record, the applicable law, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner, Gary R. Johnson, M.D., is licensed to practice medicine in the State of Florida pursuant to Chapter 458, Florida Statutes.
2. The Green Clinic is a partnership of professional associations.

3. The Petitioners have provisionally entered into an agreement and wish the Board to interpret whether the proposed business arrangement would constitute a "split-fee arrangement" prohibited by Section 458.331(1)(i), Florida Statutes. The facts are as follows:

The Agreement provides the GREEN CLINIC will furnish to Dr. Johnson an independent contractor physician, "... office space . . . supplies, equipment, nursing help and clerical help, as well as x-ray facilities, laboratory facilities, ultra-sound studies and nuclear medicine studies" In addition, the GREEN CLINIC will also provide for the use of Dr. Johnson "... the usual small instruments that are used generally by physicians for diagnosis or treatment in their office, and minor medications such as alcohol, mercurochrome, bandages and the like"

In consideration of the services, facilities, space and supplies furnished by the GREEN CLINIC, this Agreement provides that Dr. Johnson will "... determine the amount of the fees of [his] patients . . ." and will participate "... in a central professional fee billing arrangement . . ." which in substance places upon the GREEN CLINIC the responsibility of billing and collecting from those patients of Dr. Johnson who were treated by him as a result of his association with the GREEN CLINIC.

From the total fees collected, Dr. Johnson will be paid 46% for his services; while the GREEN CLINIC will be paid 54% for its services to Dr. Johnson and his patients.

Dr. Johnson's compensation will not be tied to or associated with referrals to the GREEN CLINIC or to any other physician associated with the GREEN CLINIC.

Dr. Johnson will not have an ownership interest in the GREEN CLINIC, but as to the GREEN CLINIC will be an independent contractor.

4. Petitioners request the Board to review the above-stated facts and to state whether the conduct described violates Section 458.331(1)(i), Florida Statutes.

5. This petition was noticed by the Board of Medicine in the November 2, 1990, issue of the Florida Administrative Weekly (Vol. 16, No.44, Pg. 5199).

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida

