

of \$5,000, upon which the name of Lynn E. Black appears as principal and the National Surety Corporation appears as surety, conditioned to cover the faithful performance of the duties of the principal as Superintendent of State Highway Patrol.

The aforesaid bond is undoubtedly executed pursuant to the requirement of section 1181-2, General Code (section 2 of House Bill No. 270, passed at the regular session of the 90th General Assembly, on March 28, 1933, approved by the Governor on March 30, 1933, and filed in the office of the Secretary of State on March 31, 1933). Said section 1181-2, General Code, provides in part:

“\* \* \* The superintendent shall give a bond for the faithful performance of his duties in such amount and with such security as the director may approve. \* \* \*”

Upon examination of such bond, I find the same to have been properly executed, with the exception of the fact that the word “Franklin” should be inserted in the blank space preceding the word “County” in the first line of the Oath.

Finding said bond legal and proper as to form, I have endorsed my approval thereon and return the same herewith.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

1674.

OSTEOPATHIC PHYSICIAN—NOT QUALIFIED TO ACT AS MEDICAL  
WITNESS IN LUNACY PROCEEDINGS.

**SYLLABUS:**

*An osteopathic physician is not a registered physician having at least three years' experience in the practice of medicine, within the meaning of Section 1956, General Code, and is therefore not qualified to act as a medical witness in lunacy proceedings held pursuant to Sections 1954 et seq. General Code. (Opinion of a former Attorney General, appearing in Opinions of the Attorney General for 1917, Vol. 3, page 1994, followed.)*

COLUMBUS, OHIO, October 5, 1933.

HON. JACKSON E. BETTS, *Prosecuting Attorney, Findlay, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion on the following matter:

“Section 1956, Ohio General Code, provides that in insanity hearings when the Probate Judge is satisfied that a person is insane,

\* \* he shall cause a certificate to be made out by two medical witnesses \* \*

In qualifying medical witnesses the statute says:

‘The medical witnesses must be registered physicians according to the laws of Ohio, and must have had at least three years' experience in the practice of medicine.’

In your opinion, does this statute preclude an osteopathic physician from testifying as a medical witness?"

The question presented by your inquiry, was considered by one of my predecessors in office, in an opinion rendered by him under date of October 24, 1917, found in Opinions of the Attorney General for 1917, Vol. 3, page 1994, in which he held as stated in the syllabus:

"An osteopath is not a physician within the meaning of Sections 1954 and 1956, General Code, relative to lunacy proceedings."

Such opinion is well reasoned, and I am reluctant to overrule the same unless subsequent enactments of the legislature require such action.

It might be well to examine the provisions of the present Code, for the purpose of determining whether or not there has been such change of legislation as would require a reversal of the opinion of my predecessor. Sections 1955, 1955-1, 1955-2 and 1956, of the General Code, provide for the examination of an alleged insane person by two physicians, and the taking of the testimony of such physicians. Section 1955-1, General Code, further provides that when an emergency examination is to be made, the examining physician shall immediately transmit to the superintendent of the state hospital "a special medical certificate."

It is always to be presumed that the legislature at the time of the enactment of a law is familiar with the other provisions of the statutes with reference to the same subject matter, and that it intends its enactment to be in harmony with the then existing sections of the Code. *Cincinnati vs. Commer*, 55 O. S. 82. The Medical Practice Act (§§1262 to 1295-20, General Code) discloses that the legislature has classified the types of persons entitled to practice branches of medicine. One branch is referred to as "practitioners of medicine and surgery." In order to obtain a certificate or license to engage in such practice, an examination as to the applicant's proficiency in the branches of learning applicable thereto, is given by the State Medical Board, and upon the applicant's successfully passing such examination he is entitled to receive a certificate or license to practice medicine or surgery in the State of Ohio (§§1273 and 1274, General Code.) The Code then refers to certain other types of practitioners as "practitioners of limited branches of medicine or surgery" such as chiropractic, naprapathy, spondylotherapy, mechano-therapy, neuropathy, electro-therapy, hydro-therapy, suggestive-therapy, psycho-therapy, magnetic healing, chiropody, Swedish movements, massage, etc. (§1274-1, General Code.) In Section 1288, General Code, there is a separate classification called "osteopathic physicians." Such section states that the certificate granted to such type of physicians "shall authorize the holder thereof to practice osteopathy and surgery in this state, but shall not permit him to prescribe or administer drugs, except anaesthetics and antiseptics."

You will note that Section 1274, General Code, authorizes one type of practitioner to practice medicine and surgery, while Section 1288, General Code, authorizes the other type to practice osteopathy and surgery. Such fact, together with the additional fact that osteopathic physicians are not authorized to prescribe or administer drugs, except anaesthetics and antiseptics, would tend to indicate a legislative intent not to consider osteopathic physicians as having the same qualifications of a doctor of medicine. Osteopathy has been defined as "rubbing and kneading the body for the treatment, cure or relief of a certain infirmity or disease." (See *State vs. Gravett*, 65 O. S. 289.) I am informed that neither the statute nor the Ohio State Medical Board has adopted or laid down

any rule of admission to practice such vocation which would require such applicants for certificates either to be educated in the diagnosis or treatment of brain or nervous disorders. I am further informed that osteopathic physicians are not examined in the diagnosis or treatment of brain or nerve disorders as a condition precedent to the issuance of their license by the medical board.

Since the certificate evidencing the license of an osteopathic physician does not purport to authorize him to practice medicine and further, since the medical board has not required an applicant for an osteopathic physician's license to be examined as to his knowledge of mental and nerve disorders or the general practice of medicine, I am not persuaded that the opinion of my predecessor is incorrect.

Specifically answering your inquiry it is my opinion that an osteopathic physician is not a registered physician, having at least three years experience in the practice of medicine, within the meaning of Section 1956, General Code, and is therefore, not qualified to act as a medical witness in lunacy proceedings held pursuant to Sections 1954 et seq. General Code. Opinion of a former Attorney General appearing in Opinions of the Attorney General for 1917, Vol. 3, page 1994, followed.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

---

1675.

BOARD OF EDUCATION—MAY BUT IS NOT REQUIRED TO PROCURE LIABILITY AND PROPERTY DAMAGE INSURANCE COVERING SCHOOL WAGON, MOTOR VAN AND PUPILS.

**SYLLABUS:**

1. *Under the provisions of section 7731-5, General Code, a board of education may, but is not required to, procure liability and property damage insurance.*
2. *A board of education, by virtue of this section, may take out insurance covering pupils who are transported in school busses which are owned by the board of education, or are transported in busses which are not owned by the board of education.*

COLUMBUS, OHIO, October 5, 1933.

HON. W. J. SCHWENCK, *Prosecuting Attorney, Bucyrus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“The Legislature enacted a law, effective September 25, 1933, which law has been numbered 7731-5 G. C.

This is the Section of the Statute that authorizes Boards of Education to procure liability and property damage insurance, covering each school wagon or motor van.

One of our local school boards has asked me whether or not this law is mandatory.