4806.

DISTRICT HEALTH COMMISSIONER—MUST BE LICENSED TO PRACTICE MEDICINE AND NOT DENTISTRY.

SYLLABUS:

The unqualified term "physician" as used in Title III, Division II, Chapter 19 of the General Code, relating to the State Department of Health, must be construed as a licensed practitioner of medicine and does not include licensed dentists.

COLUMBUS, OHIO, December 12, 1932.

HON. DAVID CREGER, *Prosecuting Attorney, Upper Sandusky, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

> "I would like to have your interpretation as to whether or not the description of Health Commissioner, under Section 1261-19 of the General Code of Ohio, of licensed physician would include licensed dental physician. In other words may a licensed dental physician be appointed Health Commissioner?"

Section 1261-19, General Code, provides in part as follows:

> "Within thirty days after the appointment of the members of the district board of health in a general health district, they shall organize by selecting one of the members as president and another member as president pro tempore. The district board of health shall appoint a district health commissioner upon such terms, and for such period of time, not exceeding two years, as may be prescribed by the district board. Said appointee shall be a licensed physician and shall be secretary of the board and shall devote such time to the duties of his office as may be fixed by contract with the district board of health. * * * * * * *."

Although the statutes of Ohio do not expressly define the term "physisian" as meaning one licensed to practice medicine and surgery, the term "physician" is a common word generally understood to mean a person so licensed. Webster's New International Dictionary defines "physician" as "One duly authorized to treat diseases, especially by medicines; a doctor of medicine."

It is well established in this state that words in a statute will be presumed to be used in their general meaning unless the context or surrounding circumstances indicate a different meaning. *Kiefer* vs. *State,* 106 O. S. 285. A consideration of the use of the term in the General Code of Ohio, particularly in Title III, Division II, Chapter 19, being the chapter relating to the State Department of Health, does not indicate any requirement for construing the term in other than its generally accepted sense. In fact, it is apparent that the legislature has, throughout the chapter, used the term as meaning a licensed practitioner of medicine, as will be hereinafter shown.

Section 1234, General Code, relating to the qualifications of members of the Public Health Council, appointed by the Governor, provides that "Of the appointive members, at least two shall be physicians who shall have had training

or experience in sanitary science." It is well recognized that dentists do not ordinarily have either training or experience in general sanitary science, but rather in what may be termed oral science.

Section 1243, General Code, provides as follows:

> "Boards of health, health authorities or officials, and physicians in localities where there are no health authorities or officials, shall report to the state board of health promptly upon the discovery thereof, the existence of any one of the following diseases: asiatic cholera, yellow fever, smallpox, scarlet fever, diphtheria, membranous croup, typhus or typhoid fever, and such other contagious or infectious diseases as the state board specifies."

The reference in the foregoing section to physicians is clearly a reference to practitioners of medicine. Dentists are not professionally concerned with asiatic cholera, yellow fever, smallpox, etc.

Section 1243-1, General Code, provides in part as follows:

> "Every physician in this state attending on or called into visit a patient whom he believes to be suffering from poisoning from lead, phosphorus, arsenic, brass, wood alcohol, mercury or their compounds, or from anthrax or from compressed air illness and such other occupational diseases and ailments as the state department of health shall require to be reported, shall within forty-eight hours from the time of first attending such patient send to the state commissioner of health a report stating:
>
> (a) * * * * * * * * * * *
> (b) * * * * * * * * * * *
> (c) * * * * * * * * * * *
> (d) * * * * * * * * * * *"

Again, Section 1248-5 relates to the duties of physicians in attendance in a case of childbirth. Dentists are not customarily in attendance on such cases. Throughout the chapter I think it is clear that the term "physician" means a practitioner of medicine.

Those observations are not only true as to the chapter relating to the State Department of Health, but the legislature has obviously used the term "physician" in the same sense elsewhere in the General Code. Section 1262 provides that the Governor shall appoint a State Medical Board, "consisting of seven members who shall be physicians." Section 1263 provides that the secretary of the State Medical Board shall be "a physician." In the chapter relating to the State Dental Board is the same distinction, Section 1331 providing as follows:

> "Nothing in this chapter applies to a legally qualified physician or surgeon unless he practices dentistry as a specialty, or to a dental sugeon of the United States army or navy; or to a legal practitioner of dentistry of another state, making a clinical demonstration before a dental society, convention, association of dentists or dental college."

I am not unaware of a few decisions in other states which have construed the term "physician" in its broadest sense, including dentists, several of which

are cited in 48 C. J. 1063, 1064. It is my opinion, however, that the unqualified term "physician" as used in Title III, Division II, Chapter 19 of the General Code, relating to the State Department of Health, must be construed as a licensed practitioner of medicines and does not include licensed dentists.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4807.

BOARD OF EDUCATION—MAY FURNISH PERSONAL NECESSITIES TO SCHOOL CHILDREN OF PRIVATE AND PAROCHIAL SCHOOLS.

SYLLABUS:

By force of Section 1, *of Amended Senate Bill No.* 2, *of the First Special Session of the* 89th *General Assembly, a board of education of a city, village, exempted village or rural school district may, at any time prior to December* 31, 1933, *provide from public funds, shoes, clothing, medical attention or such other necessities as will enable children within compulsory school age in the district to attend school, when such board is satisfied that any such children are unable to attend school because in want of the said necessities and those upon whom the child is dependent are unable to support or care for themselves and furnish these necessities to the child, regardless of whether the child attends a public, parochial or other private school.*

COLUMBUS, OHIO, December 12, 1932.

HON. PAUL A. FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

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

> "May the board of education extend help to indigent children who regularly attend a parochial school in the school district, or is the board confined to expending relief funds to children attending a public school? My question is raised because of the suggestion that the board of education supply milk, soup and other foods to needy children who attend school in this district, and the question of whether or not Section 1 of Amended Senate Bill No. 2, passed March 31, 1932, is broad enough to legalize such an expenditure."

Section 1 of Amended Senate Bill No. 2, passed at the First Special Session of the 89th General Assembly, reads in part, as follows:

> "When the board of education of any city, village, exempted village or rural school district is satisfied that a child compelled to attend school is unable to do so because in want of shoes, clothing, medical attention, or other necessities, and those upon whom the child is dependent are unable to support or care for themselves and the child, the given board of education at any time prior to December 31, 1933, may provide such necessities as may enable the child to attend school. * *"