

notes before making distribution of such moneys to the local subdivisions under authority of Section 5546-19, General Code.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1270.

DENTIST, GRADUATE—MAY NOT PRACTICE DENTISTRY AS INTERNE IN HOSPITAL OR PUBLIC INSTITUTION IN OHIO—WITHOUT LICENSE FROM OHIO STATE DENTAL BOARD.

**SYLLABUS:**

*A graduate dentist may not engage in the practice of dentistry as an interne in a hospital or public institution in this state unless he first obtains a dental license from the Ohio State Dental Board.*

COLUMBUS, OHIO, October 5, 1939.

MORTON H. JONES, D. D. S., *Secretary, Ohio State Dental Board, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion on the following:

“As Secretary of the Ohio State Dental Board, I am instructed to communicate with you and request your formal written opinion on the following question:

There are in the State of Ohio some hospitals and State institutions that employ resident dentists or dental internes, whose duty it is to care for the dental needs of those in the In and/or Out Patient Department of the Hospital, and inmates of the State institutions.

In most cases the dental interne is technically under the supervision of a licensed dentist who is a member of the hospital staff, although quite often the dental interne will perform dental operations without a staff dentist being present. The work of such internes will consist of extractions, examinations, diagnoses, treatments, oral surgery, and, in some instances, restorative and prosthetic operations. By way of remuneration some dental internes receive maintenance only. Others receive a small salary and maintenance. In some instances the dental interne has not been licensed by the Ohio State Dental Board.

The question is, are graduate dentists permitted to practice dentistry as internes in Hospitals and State institutions in Ohio without first having obtained a license from the Ohio State Dental Board?

The Ohio State Dental Board respectfully requests your formal written opinion on the aforementioned question."

Section 1320, General Code, which states what persons may engage in the practice of dentistry in this state, provides as follows :

"Unless previously qualified as provided by law, no person shall practice dentistry in this state until he has obtained a license from the state dental board as hereinafter provided."

By the above enactment, the Legislature has limited the practice of dentistry to those persons who obtain a dental license from the State Dental Board in the manner prescribed by statute.

In the case of *Fabry vs. The State of Ohio*, 26 N. P. (N. S.) 546, the court held as evidenced by the third headnote of the syllabus that :

"Section 1320, General Code, making it unlawful to practice dentistry without a license, must be read in connection with Section 1329, General Code, which defines the practice of dentistry."

In line with the reasoning of the above case, it becomes necessary to examine Section 1329, General Code, in order to determine whether the services rendered by the graduate dentist referred to in your communication constitute the practice of dentistry. Said section, in so far as it is pertinent to your inquiry, reads as follows :

"Any person shall be regarded as practicing dentistry, within the meaning of this act, who is a manager, proprietor, operator or conductor of a place for performing dental operations or who, for a fee, salary or other reward paid or to be paid either to himself or to another person, performs, or advertises to perform, dental operations of any kind, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who takes impressions of the human teeth or jaws, or who uses words 'dentists', 'dental surgeon', the letters 'D.D.S.', or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry."

You state in your letter that the work of the so-called dental internes consists of extractions, examinations, diagnoses, treatments, oral surgery and, in some instances, restorative and prosthetic operations. Clearly, such

work comes within the statutory definitions set forth above and in view of the fact that, as pointed out in your letter, the internes receive either a salary or maintenance or both in return for services rendered, it is apparent that they are engaged in the practice of dentistry.

Being of the view that the internes are engaged in the practice of dentistry, it is my opinion that to continue such practice legally they must obtain a dental license from your Board as provided in Section 1320, *supra*.

My conclusion is not altered by the fact that the internes are graduate dentists or that they ordinarily perform their work under the direct supervision of a duly licensed dentist. The dental law specifically exempts certain classes of persons from its requirements. The exemptions are contained in Sections 1330 and 1331, General Code, which provide as follows:

*Section 1330, General Code:*

“Nothing in this chapter is intended to apply to a bona fide student of dentistry in the clinic rooms of a reputable dental college.”

*Section 1331, General Code:*

“Nothing in this chapter applies to a legally qualified physician or surgeon unless he practices dentistry as a specialty, or to a dental surgeon of the United States army, navy, public health service or veteran’s bureau; 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.”

Nowhere in the above sections is a graduate dentist mentioned. Under the accepted rule of statutory construction to the effect that the express mention of a class implies the exclusion of all other classes, *expressio unius est exclusio alterius*, it follows that graduate dentists are subject to the provisions of the dental laws and in order to carry on the practice of dentistry in this state they must obtain a dental license from the State Dental Board.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that a graduate dentist may not engage in the practice of dentistry as an interne in a hospital or public institution in this state unless he first obtains a dental license from the Ohio State Dental Board.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*