

stating that "in December, 1930, we presented them (the R's) with a comfort for Christmas" that the class was not an organization furnishing systematized relief and hence, that the clothing and bedding were in the nature of a Christmas gift. Mere gifts, whether from an individual or an organization to the less prosperous members of the community, are not relief within the intent of Section 3477, General Code.

Consequently, in specific answer to your inquiry, it is my opinion that:

1. The services of a public health nurse are not relief within the purview of Section 3477, General Code.

2. Clothing and supplies furnished children by a Board of Education, pursuant to the provisions of Section 7777, General Code, are not relief under the provisions of law for the relief of the poor within the meaning of Section 3477, General Code.

3. Christmas gifts to a needy family by a church Sunday school class, are not relief within the purview of Section 3477, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5097.

DENTAL HYGIENIST—QUALIFICATIONS NECESSARY FOR
LICENSE—STATE DENTAL BOARD MAY ISSUE LICENSE
WHEN.

SYLLABUS:

1. *An applicant for a license as a dental hygienist in the State of Ohio, in addition to other requirements, must show that she is possessed of an education equivalent to completion of four years of a first grade high school of at least 15 units, as defined in the school laws of this state.*

2. *The State Dental Board may license a person as a dental hygienist who has not actually served four years of high school provided such person has the equivalent of a high school education. In considering whether or not a person has the equivalent of a high school education, the State Dental Board may employ all reasonable methods necessary to a proper determination of such question.*

COLUMBUS, OHIO, January 15, 1936.

HON. MORTON H. JONES, D. D. S., *Secretary, Ohio State Dental Board,*
1553½ North Fourth Street, Columbus, Ohio.

DEAR SIR: This will acknowledge receipt of your request for my opinion upon the following set of facts:

It appears that an applicant for a license as a dental hygienist has only two years of high school education, which was procured in 1909 and

1910. It further appears that the applicant matriculated in the Rochester Dental Dispensary School for Dental Hygienists, Rochester, New York, on September 10, 1917, and graduated from that school on the 18th day of June, 1918.

It appears that at that time all of such schools in the country required only two years of high school. It further appears that the applicant took the dental hygiene licensing examination in 1918 in the State of New York and received her license. At that time the State of New York required only one year of high school education of persons taking such examination.

In view of the above facts, you inquire whether or not the applicant in question is eligible to be licensed by the Ohio State Dental Board to practice dental hygiene in the State of Ohio.

As pointed out in your letter, it is necessary for an applicant for a license as a dental hygienist to show certain preliminary qualifications before such person can take an examination for such license. Section 1321-2, General Code, in so far as it is pertinent to your inquiry, reads as follows:

“Each person who desires to practice as a dental hygienist within this state shall file with the secretary of the state dental board a written application for a license, upon the form prescribed and verified by oath. Such applicant shall furnish satisfactory proof of being at least eighteen years of age, of good moral character, *possessed* of an education equivalent to completion of four years of a first grade high school of at least fifteen units, as defined in the school laws of this state; further such applicant shall present a diploma or certificate of graduation from a reputable school as defined by the state dental board, for the training of dental hygienists; and further, such applicant shall pay the examination fee of ten dollars. * * *

By virtue of Section 1321-3, General Code, the practice of a dental hygienist is limited to the removal, by mechanical means only, of calcareous deposits, accretions and stains from the exposed surface of the teeth and directly beneath the normal free margin of the gums.

The legislature, in its wisdom, has determined that only persons who meet the requirements of Section 1321-2, General Code, *supra*, may practice as dental hygienists. Some discretion as to what constitutes a high school education must have been intended to be placed in the State Dental Board by the provisions of Section 1321-2, General Code. The words, “equivalent to completion of four years of a first grade high school”, clearly show such an intention. Had the legislature intended that an applicant for a license as a dental hygienist have successfully

completed four years of high school, there would have been no reason for the inclusion of the word "equivalent" in Section 1321-2, General Code.

Webster defines the word "equivalent" as:

"Equal in value, force, power, effect, or moral worth, import or meaning."

Bouvier's Law Dictionary defines the word "equivalent" as follows:

"Of the same value. Sometimes a condition must be literally accomplished in forma specifica: but some may be fulfilled by an equivalent, per aequipolens, when such appears to be the intention of the parties: * * *"

That the legislature intended to place some importance upon the inclusion of the word "equivalent" is shown by the fact that under the old law regulating the subject of embalming an applicant for an embalmer's license was required to have "a high school education or its *equivalent*" (see Section 1342, General Code, repealed in 115 O. L., 354).

The present law regulating embalmers and funeral directors provides that an applicant for an embalmer's license have, among other qualifications, "prior credits of not less than four years of high school." See present Section 1335-3, General Code. No mention is made of the word "equivalent." Since this word has been dropped, it would appear that the legislature now intends that an applicant for an embalmer's license shall have actually attended high school for four years and received the proper credit.

There would, therefore, seem to be a certain amount of discretion placed in the State Dental Board in determining whether or not an applicant for a license as a dental hygienist has the equivalent of a high school education. Section 1321-2, General Code, provides that the applicant shall furnish satisfactory proof of certain requirements. This places in the dental board the right to determine whether or not the applicant has these requirements. This discretion must be exercised by the dental board. In the absence of fraud or a showing of what amounts to a gross abuse of discretion, the courts of this state have declared that they will not control the discretion placed in an administrative body. *Brannon v. Board of Education*, 99 O. S., 369; *Stanton v. Tax Commission*, 114 O. S., 658.

In the present case there may be factors present which will lead your board to a determination that the applicant does have the equivalent of a high school education. Any reasonable methods that your board employs to determine this question, would be legal. On the other hand, the applicant has not actually attended four years of high school and it is possible for your board to properly determine that the applicant does not have the equivalent of a high school education. The very nature of the question

makes it one of fact, rather than of law and it would follow that a categorical answer may not be given to your question. It is believed, however, that a consideration of the above principles will tend to assist your board in determining the eligibility of this applicant.

Summarizing, it is my opinion:

1. An applicant for a license as a dental hygienist in the State of Ohio, in addition to other requirements, must show that she is possessed of an education equivalent to completion of four years of a first grade high school of at least 15 units, as defined in the school laws of this state.

2. The State Dental Board may license a person as a dental hygienist who has not actually served four years of high school provided such person has the equivalent of a high school education. In considering whether or not a person has the equivalent of a high school education, the State Dental Board may employ all reasonable methods necessary to a proper determination of such question.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5098.

APPROVAL—BONDS OF GRAND RAPIDS TOWNSHIP RURAL
SCHOOL DISTRICT, WOOD COUNTY, OHIO, \$16,500.00.

COLUMBUS, OHIO, January 15, 1936.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio

5099.

APPROVAL—BOND FOR THE FAITHFUL PERFORMANCE OF
HIS DUTIES AS RESIDENT DIVISION DEPUTY DIRECTOR—IVAN R. AULT.

COLUMBUS, OHIO, January 15, 1936.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a bond to guarantee the faithful performance of the duties of the official as hereinafter listed:

Ivan R. Ault, Resident Division Deputy Director, Division
No. 3—The Glens Falls Indemnity Company.