

1918.

OSTEOPATHIC PHYSICIAN — NOT A LICENSED PHYSICIAN WITHIN MEANING OF SECTION 2856-3 G. C.—NOT ELIGIBLE TO OFFICE OF CORONER, UNLESS, PRIOR TO HIS ELECTION, HE SERVED AS CORONER.

SYLLABUS:

An osteopathic physician is not a licensed physician within the meaning of section 2856-3, General Code, and is therefore not eligible to the office of coroner, unless he shall have previously served as coroner prior to his election.

Columbus, Ohio, February 26, 1940.

Hon. Earl Griffith, Secretary of State,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your letter of recent date, wherein you

request my opinion on the question of whether or not an osteopathic physician is eligible to the office of coroner.

Section 2856-3, General Code, which sets forth the qualifications for coroner, reads in part as follows:

“No person shall be eligible to the office of coroner in any county except a licensed physician of good standing in his profession or a person who shall have previously served as coroner prior to his election.”

Is an osteopathic physician a “licensed physician” within the meaning of the above section? This is the sole question for consideration.

A “physician,” as defined in Webster’s New International Dictionary, is “a person skilled in physic or the art of healing; one duly authorized to treat diseases, esp. by medicines; a doctor of medicine;—often distinguished from surgeon.”

In the case of *Prowitt v. City of Denver*, 11 Colo. App. 70, it is stated:

“A physician is one qualified and authorized to prescribe remedies for diseases. He gives prescriptions for medical purposes; and the sale of liquor on a prescription given by him is a sale of liquor for medical purposes.”

In the case of *State v. Beck*, 21 R. I. 288, the court defined a “physician” as:

“* * * one who practices the art of healing disease and of preserving health; a prescriber of remedies for sickness and disease. He is presumed to be familiar with the anatomy of the human body in its entirety; to understand the science of physiology and the laws of hygiene; and to be able to minister, as far as may be, to the relief of pain, disease, and physical ailments of all sorts and kinds whatsoever.”

See also *Harrison v. State*, 102 Ala. 170; *Richardson v. State*, 47 Ark. 562; *Castner v. Sliker*, 33 N. J. Law, 507.

Osteopathy has been defined as that method of the healing art accomplished by a system of rubbing and kneading the body. *State v. Marble*, 72 O. S. 21; *State v. Gravett*, 65 O. S. 289.

Section 1273, General Code, which provides for the examination of applicants for certificates to practice medicine and surgery, reads as follows:

“The examination of applicants for certificates to practice medicine or surgery shall be conducted under rules prescribed by the state medical board. Each applicant shall be examined in anatomy, physiology, pathology, chemistry, materia medica and therapeutics, the principles and practice of medicine, diagnosis, surgery, obstetrics and such other subjects as the board requires. The applicant shall be examined in materia medica and therapeutics and principles and practice of medicine of the school of medicine in which he desires to practice, by the number of members of the board representing such school.”

Section 1290, General Code, provides for the appointment of a state osteopathic examining committee by the State Medical Board. The provisions of law with respect to the examination in osteopathy are contained in section 1289, General Code, which reads as follows:

“Before he shall be admitted to an examination before the state medical board a person who desires to practice osteopathy shall pay a fee of twenty-five dollars to its treasurer and file with its secretary such evidence of preliminary education as is required by law of applicants for examination to practice medicine or surgery, together with a certificate from an osteopathic examining committee as hereafter provided, showing that the applicant holds a diploma or a physician’s osteopathic certificate from a reputable college of osteopathy as determined by such committee, and that he has passed an examination in a manner satisfactory to the committee in the subjects of pathology, physiological chemistry, gynecology, minor surgery, osteopathic diagnosis and the principles and practice of osteopathy.”

In addition to the subjects of examination above set out, an osteopath is, under the last amendment to section 1288, General Code (108 O. L. Pt. 1, p. 160), required to successfully pass an examination in the subjects of anatomy, physiology, obstetrics, surgery and diagnosis in the manner provided by the Medical Board.

It will be noted from the sections above quoted, that an osteopathic physician is not required to submit to or pass an examination in materia medica or therapeutics, or the principles and practice of medicine, while under the statute no person may be given a certificate to practice medicine or surgery without successfully passing an examination in those subjects. The words “materia medica” and “therapeutics” are defined in Webster’s New International Dictionary as follows:

“Materia medica. Material or substance used in the composition of a remedy; the general term for all substances used as curative agents in medicine.”

“Therapeutics. That part of medical science which treats of the discovery and application of remedies for diseases.”

Section 1274, General Code, which deals with the issuance of a certificate to practice medicine, reads in part as follows:

“* * * Such certificate when deposited with the probate judge as required by law, shall be conclusive evidence that the person to whom it is issued is entitled to practice medicine or surgery in this state.”

Provisions with respect to the certificate issued to an osteopathic physician are contained in section 1288, General Code, which reads in part as follows:

“* * * Such certificate shall authorize the holder thereof to practice osteopathy and surgery in the state, but shall not permit him to prescribe or administer drugs, except anaesthetics and antiseptics.”

After reading the language contained in the two sections last above quoted, it is apparent that the Legislature did not consider osteopathic physicians qualified to engage in the unlimited practice of medicine or surgery. This conclusion finds further support in the fact that the statutes, as above pointed out, do not require the same technical qualifications of osteopaths as are required of practitioners of medicine and surgery.

The question of whether or not the word “physician,” when used in the statutes contemplated inclusion of osteopathic physicians, was considered in an opinion by the then Attorney General in 1933 (Opinions of the Attorney General, 1933, Vol. II, 1537), wherein it was held:

“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 Section 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).”

The language of the statute under consideration in said opinion (former section 1956 of the General Code, now section 1890-27, General Code) reads as follows:

“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.”

It is a fundamental rule of statutory construction that words of a statute are to be given their natural and commonly understood meaning. On this point, it is stated in 37 O. Jur. page 542:

“As a general rule, words of a statute, in common use or other than terms of art or science, will be construed in their ordinary acceptation and significance and with the meaning commonly attributed to them. Indeed, the intention of the legislature to use statutory phraseology in such manner has even been presumed. Ordinarily, such words are to be given their natural, literal, and full meaning. These rules are applicable unless such an interpretation would be repugnant to the intention of the legislature, as plainly appears from a construction of the entire statute.”

An examination of the Medical Practice Act (Sections 1262 to 1295-20, General Code) will disclose that there is nothing contained therein which would indicate that the Legislature intended the word “physician,” when used in the statutes, to mean any person other than one who is licensed to practice medicine or surgery. To the contrary, the different branches of practice have been distinctly classified by the Legislature. One branch is referred to as “practitioners of medicine or surgery,” another as “practitioners of limited branches of medicine or surgery,” and a third as ‘osteopathic physicians.’”

It would therefore appear that the word “physician,” as the same is used in the statute in question, is a person who is licensed to practice “medicine or surgery.” The practice of medicine as ordinarily or popularly understood not only requires a knowledge of disease and its origin, but in addition requires a knowledge of drugs, their preparation and action. In other words, it consists of the discovery of the cause and nature of the disease, and the administration of drugs and their remedies in connection with the treatment therefor.

In view of the foregoing, I am constrained to reach the conclusion that the words “licensed physician” as the same appear in section 2856-3, supra, refer to those practitioners licensed to practice medicine or surgery and do not contemplate osteopathic physicians, since, under the terms of the statute, the latter are not permitted to prescribe or administer drugs, except anaesthetics and antiseptics.

Therefore, in specific answer to your question, it is my opinion that an osteopathic physician is not a licensed physician within the meaning of

section 2856-3, General Code, and is therefore not eligible to the office of coroner, unless he shall have previously served as coroner prior to his election.

Respectfully,

THOMAS J. HERBERT,
Attorney General.