

Note from the Attorney General's Office:

1974 Op. Att'y Gen. No. 74-055 was overruled by
1981 Op. Att'y Gen. No. 81-082.

OPINION NO. 74-055

Syllabus:

R.C. 305.171 does not grant a board of county commissioners the authority to purchase dental care insurance for its county officers and their employees and dependents.

To: Harry Friberg, Lucas County Pros. Atty., Toledo, Ohio
By: William J. Brown, Attorney General, June 26, 1974

Your request for my opinion presents the question of whether a board of county commissioners may, pursuant to R.C. 305.171, provide dental services from its funds for county officers and employees and their dependents.

R.C. 305.171 provides in part as follows:

"(A) The board of county commissioners of any county may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for county officers and employees and their immediate dependents from the funds or budgets from which said officers or employees are compensated for services, whether issued by an insurance company, a hospital service association, or a nonprofit medical care corporation duly authorized to do business in this state."

The acts of the General Assembly authorizing the purchase of insurance covering public employees have been strictly interpreted in Opinions of the Attorney General. See, e.g., Opinion No. 72-111, Opinions of the Attorney General for 1972; Opinion No. 71-047 and Opinion No. 71-034, Opinions of the Attorney General for 1971; Opinion No. 70-051, Opinions of the Attorney General for 1970; Opinion No. 69-049 and Opinion No. 69-034, Opinions of the Attorney General for 1969; and Opinion No. 68-140, Opinions of the Attorney General for 1968.

R.C. 305.171 makes no mention of dental insurance in the enumeration of the various types of insurance made available. The maxim of expressio unius est exclusio alterius (the mention of one thing implies the exclusion of all others) indicates

that the General Assembly did not intend to authorize the purchase of any type of coverage not mentioned.

When the General Assembly granted similar authority to boards of education and to trustees of state institutions of higher learning, provision was specifically made to include dental coverage. R.C. 9.90.

R.C. 339.16 grants boards of trustees of any county hospital or of any county or district tuberculosis hospital, authority to procure the coverage similar to those listed in R.C. 305.171 and in addition R.C. 339.16 specifically grants such boards authority to procure dental coverage for its employees. The application of expressio unius would, therefore, lead to a construction of R.C. 305.171 which comports with the apparent intent of the General Assembly. Since the General Assembly has utilized the term "dental" in two statutes analogous to R.C. 305.171 while failing to make a similar provision in R.C. 305.171, I must conclude that the omission was intentional. See Opinion No. 72-111, supra.

I find further support for my conclusion from Opinion No. 69-046, Opinions of the Attorney General for 1969. My predecessor held that a board of township trustees could not purchase life insurance pursuant to R.C. 505.60, a Section analogous to R.C. 305.171, because such coverage was not listed in the statute.

Similarly, R.C. 305.171 formerly did not authorize county commissioners to purchase life insurance for county employees. However, in 1973 the General Assembly amended R.C. 305.171 (H.B. No. 53) to authorize county commissioners to procure group life insurance for county officers and employees and their dependents from the general fund of the county. Thus, although the legislature has recently turned its attention to this Section, it did not choose to add a reference to dental insurance, as it had previously expressly done in R.C. 9.90 and R.C. 339.16.

It should also be noted that Title 17 of the Revised Code contains chapters regulating medical care corporations (Chapter 1737.), hospital service associations (Chapter 1739.), and dental care corporations (Chapter 1740.). The first two of these are specifically mentioned in R.C. 305.171, but the dental care corporation is not.

To a certain extent, significant dental problems may be covered under the provisions of medical and health care insurance. R.C. 1737.01, R.C. 1738.01. It is apparent, however, that the General Assembly did not intend to authorize dental care insurance within the scope of R.C. 305.171.

In specific answer to your request it is my opinion, and you are so advised, that R.C. 305.171 does not grant a board of county commissioners the authority to purchase dental care insurance for its county officers and their employees and dependents.