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SCHOOL BUS DRIVERS — OSTEOPATH, LICENSED TO PRACTICE IN OHIO — MAY MAKE PHYSICAL EXAMINATIONS OF SUCH DRIVERS — SECTION 7731-3 G. C.

SYLLABUS:

An osteopath, licensed to practice in Ohio, may make the physical examinations of school bus drivers required under Section 7731-3 of the General Code.

Columbus, Ohio, January 10, 1941.

Hon. Ferdinand E. Warren, Prosecuting Attorney,
Ottawa, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Please advise me whether in your opinion an osteopath may make the physical examination of school bus drivers required under Ohio General Code 7731-3.”

The pertinent part of Section 7731-3, General Code, reads as follows:

“ * * * The local board of education or the superintendent, as the case may be, shall provide for a physical examination of each driver to ascertain his physical fitness for the employment; said board or superintendent shall choose the examining physician; * * * ”

The statute uses the term “examining physician” with no further qualification of that word. The laws of Ohio relating to medical practice use the term “physician” to indicate a doctor who has a M. D. degree, and the term also describes an osteopathic practitioner. The latter is called an osteopathic physician.

Section 1288, General Code, reads in part:

“The provisions of this chapter shall not apply to an osteopathic physician. * * * ”

and the heading of Section 1292, General Code, reads:

“Admission of osteopathic physician of another state.”

Therefore, the title of "physician" could include an osteopath as well as a doctor of medicine.

In State ex rel. Kester vs. Board of Elections, 136 O. S. 523, the Supreme Court touched upon this point. Although the syllabus and the opinion is limited strictly to the problem of coroner, the court does say:

"Until the General Assembly by appropriate legislation indicates more definitely what is intended by the term, we are obliged to hold that the relator (an osteopath) is a 'licensed physician' within the purview of the statute."

The limitations for the practice of osteopathy are found in Section 1288 of the General Code. The pertinent part of that section reads as follows:

" * * * Such certificate shall authorize the holder thereof to practice osteopathy and surgery in this state, but shall not permit him to prescribe or administer drugs, except anaesthetics and anti-septics."

Clearly, this limitation placed upon an osteopathic physician relates only to the matter of prescribing and administering drugs and would not disqualify him from determining the physical fitness of a school bus driver.

Therefore, I am of the opinion that an osteopath licensed to practice in Ohio may make physical examinations of school bus drivers as required under Section 7731-3 of the General Code.

Respectfully,

THOMAS J. HERBERT,
Attorney General.