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SCHOOL OF PRACTICAL NURSING—NOT WITHIN DEFINITION OF "SCHOOL" AS USED IN SECTION 6064-16 G. C.—NO WRITTEN NOTICE NEED BE GIVEN TO AUTHORITIES IN CHARGE OF SCHOOL OF PRACTICAL NURSING BEFORE ISSUANCE OF LICENSE TO SELL INTOXICATING LIQUOR.

SYLLABUS:

A school of practical nursing does not come within the definition of "school" as it is used in Section 6064-16, General Code. That is, no written notice need be given to the authorities in charge of a school of practical nursing before the issuance of a license to sell intoxicating liquor.

Columbus, Ohio, September 22, 1949

Hon. Oscar L. Fleckner, Director, Department of Liquor Control
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Transmitted herewith is a statement of facts and memorandum brief regarding a question which has arisen in this Department concerning the definition of a 'school' within the meaning of the Ohio General Code, Section 6064-16.

"May we request an opinion from you as to whether a school of practical nursing is within the statutory definition."

Section 6064-16 General Code reads in part as follows:

"* * * and no permit shall be issued by the department under authority of this act if the business specified to be operated in the permit applied for is to be operated within a distance of five hundred feet from the boundaries of a parcel of real estate having situated thereon a school, church, library or public playground, until written notice of the filing of said application with the department shall have been personally served upon the authorities in control of said school, church, library or public playground and an opportunity shall have been provided said authorities for a full and complete hearing before the director of liquor control upon the subject of the advisability of the issuance of the said permit; * * *"

Black's Law Dictionary, 3rd ed. page 1584, defines "school" as follows:

> "An institution of learning of a lower grade, below a college or a university. A place of primary instruction. The term generally refers to the common or public schools, maintained at the expense of the public."

In 36 O. Jur. page 47, it is stated in part:

> "A school, in the ordinary acceptance of the word, is a place where instruction is imparted to the young, * * * "

In the case of Board of Education of City School District of City of Cleveland v. Ferguson, Aud., 68 O. App., 514, at page 518, it states in part as follows:

> "A school is a place where instruction is imparted to the young, * * * "

In State ex rel. Church of the Nazarene v. Fogo, Registrar, 82 O. App. 238, at page 239, aff'd 150 O. S. 45, it states:

> "It is an elementary rule of statutory construction that words used in a statute should be given their usual and ordinary meaning unless the context requires a different interpretation. Consequently, it is necessary to ascertain the ordinary meaning of the words 'school' and 'Sunday school.' We think that the term 'school' as so used denoted an institution of learning wherein a course of general education and mental training is offered for children similar to that offered in the public schools."

The intent of the legislature is to protect the young from the influence of alcohol. This intent is shown in Sections 6064-1 and 6064-22, General Code. Section 6064-1 provides that "beer" is a malt beverage containing one-half of one per centum of alcohol but not more than 3.2 per centum of alcohol by weight. Section 6064-22 provides that beer may be sold to any person who has attained the age of eighteen years. I believe the legislature recognized the social problems that would arise by having liquor establishments operated near schools wherein children are instructed. To prevent these problems, they found it necessary to pass legislation which would prohibit liquor establishments being located in close proximity to schools.

To hold that the legislature intended to give to the word "schools" a broad, all inclusive definition, would lead to absurdities. For example, there are schools in which persons are taught the principles of bartending. Could it be said logically that the legislature intended to protect these

persons from the influence of such liquor establishments? This arugment could also be applied to secretarial schools and trade schools, wherein adults are instructed.

In the absence of any contrary intention, the ordinary meaning should be given to a word. In 37 O. Jur., Section 288, at page 542, it is stated as follows:

> "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."

Therefore, we must give the word "school" its usual and ordinary meaning.

In conclusion, therefore, I believe the legislature did not intend that the word "school", as used in Section 6064-1, General Code, should be applied to a school of practical nursing.

Respectfully,

HERBERT S. DUFFY,
Attorney General.