

APRIL 1, 1959

C. J. SCHWEIKHARDT, D.D.S.
*Secretary, State Board of Registration
and Examination in Dentistry.*
150 East State Street
Trenton 8, N. J.

MEMORANDUM OPINION 1959—P-3

DEAR DR. SCHWEIKHARDT:

You have requested our opinion as to whether or not teachers in dental schools require a license to practice dentistry in this State.

R.S. 45:6-19 defines what constitutes "practicing dentistry" in this State and also sets forth which practices, acts and operations shall not be regarded as practicing dentistry within the meaning of said statute. Subsection 9 of R.S. 45:6-19, under the heading "Any person shall be regarded as practicing dentistry within the meaning of this chapter who * * *

"Performs any clinical operation included in the curricula of recognized dental schools or colleges."

You have advised us that your profession is in general agreement that the following subjects would be considered clinical operations: (a) Operative Dentistry; (b) Prosthetic Dentistry; (c) Crown and Bridge; (d) Orthodontia; (e) Oral Surgery; (f) Peridontia. You further advised that all technique and laboratory classes connected with these subjects are considered clinical.

It appears, therefore, that anyone teaching the aforementioned subjects in any dental school in this State must be a licensed dentist in New Jersey because R.S. 45:6-13 provides that "no person shall practice dentistry within the meaning of this chapter unless licensed so to do, and no person shall be deemed so licensed unless he is now licensed and registered so to do or shall hereafter be licensed and registered under the provisions of this chapter.* * *

R.S. 45:6-19 further provides under the heading, "The following practices, acts and operations shall not be regarded as practicing dentistry within the meaning of this chapter:" Subsection 3 thereof provides:

"The operation of a dental school or college as now conducted and approved, or as may be approved, by the Board of Dental Examiners; and the practice of dentistry by students in any such dental school or college approved by the board, when acting under the direction and supervision of any registered and licensed dentist acting as instructor; * * *".

It will be noted that this provision merely relates to the operation of a dental school. It makes no mention as to whether or not the teachers therein must or must not be licensed to practice dentistry in the State of New Jersey, with the exception that whenever dentistry is practiced by students therein, they must be under the supervision of a licensed dentist. There is no question that the licensed dentist referred to in this subsection means a dentist licensed in this State. It is, therefore, our opinion that wherever a teacher is engaged in performing any clinical operation or teaching any of the aforementioned subjects in a dental school in this State, such teacher must be licensed to practice dentistry in New Jersey. Any teacher engaged in the teaching

of any theoretical subjects and who does not perform any clinical operation is not required to be licensed to practice dentistry in New Jersey.

You further request our opinion as to whether or not the taking and diagnosing of X-rays can be considered clinical and should require a license. R.S. 45:6-19 provides, under subsection 4, that whoever "uses himself or by any employee, uses a Roentgen or X-ray machine for dental treatment, dental radiograms, or for dental diagnostic purposes; * * *" is regarded as practicing dentistry within the meaning of this statute and would, therefore, be required to be licensed in the State of New Jersey by R.S. 45:6-13, as cited above. In this regard, there may be an exception under subsection 6 of the practices excepted by 45:6-19 where, "The use of Roentgen or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician; provided, however, that such services shall not be advertised, by any name whatsoever, as an aid or inducement to secure dental patronage; and provided, further, that no corporation shall advertise that it has, leases, owns or operates a Roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues of the oral cavity, or administering treatment thereto for any disease thereof; * * *".

Therefore, it is our opinion that the taking and diagnosing of X-rays by an unlicensed teacher in a dental school is not permitted unless he is under the supervision of a dentist licensed in the State of New Jersey or a licensed physician and surgeon of this State.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ANDREW A. SALVEST
Deputy Attorney General

APRIL 1, 1959

HON. JOHN W. TRAMBURG, *Commissioner*
Department of Institutions and Agencies
State Office Building
Trenton, New Jersey

MEMORANDUM OPINION 1959—P-4

DEAR COMMISSIONER TRAMBURG:

Responsive to your inquiry of February 25, 1959, it appears that the State Parole Board desires advices concerning the proper handling of sentences imposed upon inmates in confinement wherein said sentences are concurrent in part and consecutive in part.

The Parole Board suggested an example case to highlight the legal points involved as follows:

Inmate John Smith received a sentence of 5 to 7 years on January 1, 1957, the maximum expiring on January 1, 1964, without regard to commutation time for good behavior or reduction of the sentence for the work performed. After serving two years of the sentence, the inmate, on January 1, 1959, received an additional sentence of 5 to 7 years and the court did not specify that said sentence should be consecutive to the first sentence being served.