



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

State Board of Dental Examiners  
Austin, Texas

Gentlemen:

Attention - Mr. Carl C. Hardin, Jr.,  
Executive Secretary.

Opinion No. 0-5689

Re: Whether or not a dentist with-  
out a license in Texas may do dental  
work in a State department or insti-  
tution.

You ask the following question upon which you re-  
quest an opinion from this Department:

"Because of the shortage of dentists,  
people are constantly asking whether or  
not a dentist without a license in Texas  
can do dental work in a state department  
or institution."

The power of the State to regulate the practice  
of dentistry exists in virtue of the police power to pro-  
tect the public health precisely the same as the practice  
of medicine is thus regulated. Article 4549 of the Revised  
Civil Statutes is as follows:

"No person shall practice or offer, or  
attempt to practice dentistry, or dental sur-  
gery in this State, without first having ob-  
tained a license from the State Board of  
Dental Examiners, as provided for in this  
law, provided that physicians and surgeons  
may, in the regular practice of their pro-  
fession, extract teeth or make application  
for the relief of pain. Nothing herein ap-

## State Board of Dental Examiners - page 2

plies to any person legally engaged in the practice of dentistry in Texas at the time of the passage of this law."

Article 4551a declares:

"Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

"(1) Who publicly professes to be a dentist or dental surgeon or who uses or permits to be used for himself or for any other person, the title of 'Doctor', 'Dr.', 'Doctor of Dental Surgery', 'D. D. S.', 'Doctor of Dental Medicine', 'D. M. D.' or any other letters, title, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws.

"(2) Who shall offer or undertake, by any means or methods whatsoever, to diagnose, treat, remove stains, or concretions from teeth, or shall treat, operate or prescribe, by any means or methods, for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws, and charge therefor, directly or indirectly, money or other compensation."

Article 747 of the Penal Code is as follows:

"It shall be unlawful for any person to practice, or offer to practice, dentistry in this State or hold himself out as practicing dentistry in this State without first having obtained a license from the State Board of Dental Examiners. Said license must be signed by all members of the Board and shall have a small photograph of the licensee attached thereon which must be partially covered by the official seal of the Board."

State Board of Dental Examiners - page 3

Article 751 of the Code declares:

"Any person authorized to practice dentistry or dental surgery in this State either under this or any former law of Texas, shall place his license on exhibition in his office where said license shall be in plain view of patients. No such person shall do any operation in the mouth of a patient, or treat any lesions of the mouth or teeth, without having said license so exhibited."

Article 754a (Vernon's codification of the Code) defines practicing dentistry as follows:

"Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

"1. Who publicly professes to be a dentist or dental surgeon or who represents himself as being able to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gum or jaws. \* \* \*"

The Court of Criminal Appeals in *Hawkins v. State*, 125 S. W. (2) 580, held that an information charging that one had publicly professed to be a physician or surgeon, and had offered to treat any disease or order, mental or physical, charged the offense of unlawful practice of medicine, within the language of a similar statute, to the one hereinabove quoted, defining the practice of dentistry.

We need not to argue, we need not to construe the above statutes, we need only to read them to discover the intention of the Legislature, and that intention is that no one may practice dentistry without a license therefor.

There is no reason that could be assigned why persons in need of dental services should not have the

State Board of Dental Examiners - page 4

same protection of law vouchsafed to the public generally, even though he be an employee of a State department, a student of a State school, or an inmate of a State institution.

Your question, therefore, is answered in the negative.

Our Opinion No. 0-3600, a copy of which is attached, may be helpful to you.

APPROVED NOV 2, 1943

*Wm. H. Miller*  
FIRST ASSISTANT  
ATTORNEY GENERAL

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Ocie Spier*  
Ocie Spier  
Assistant

05-2A