

1958 O. A. G.

OFFICIAL OPINION NO. 52

October 8, 1958

Board of Medical Registration and
Examination of Indiana
538 K. of P. Building
Indianapolis, Indiana

Gentlemen :

Your letter of September 24, 1958, has been received and reads as follows :

“The Board of Medical Registration and Examination of Indiana, in executive session September 11, 1958, directed the writer to request an Official Opinion on the following question :

“ ‘Does the Board of Medical Registration and Examination of Indiana have the power or authority to deny a license to practice chiropractic under provisions of Chapter 42, Acts of 1955, and in view of Official Opinion No. 28 issued April 28, 1958 regarding section 5b of said Act, when an application is based upon another State license, but where such applicant has been previously denied license to practice chiropractic by the Board of Medical Registration and Examination of Indiana for failure to pass the chiropractic examination given by this Board?’

“Action on several applications has been deferred pending receipt of your decision.

“This issue was raised by the Board, in view of Rule No. 23 dated January 11, 1912, effective under provisions of Chapter 120, Acts of 1945, which covers the question at issue as related to applicants for license under provisions of the Medical Practice Act.”

The section in question is Acts of 1955, Ch. 42, Sec. 5 (b), as found in Burns' (1957 Supp.), Section 63-1330, and reads as follows :

“Any applicant after the effective date of this act may, upon the payment of a fee of one hundred dollars,

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be granted a license, without an examination, providing that the applicant submits satisfactory evidence to the board that he has been licensed to practice chiropractic in another state under qualifications substantially equivalent to those specified in this act for a license to practice chiropractic.”

The foregoing Chiropractic Statute was the subject of an Official Opinion found in 1955 O. A. G., page 212, No. 53. This was followed by the above referred to Official Opinion issued April 28, 1958, regarding section 5 (b) of said act, being Official Opinion No. 28. Each of the foregoing opinions state and follow the recognized rules of statutory construction that: Statutes must be construed as a whole in order to determine the legislative intent; and, that courts will look to the general purpose and scope of a statute to determine the legislative intent, with authorities cited on each of such propositions.

The 1958 Official Opinion, *supra*, in considering said section 5 (b) of said act, on page 2 thereof, in part states:

“The chiropractic statute referred to in your question is Acts of 1955, Ch. 42, as found in Burns’ (1957 Supp.), Section 63-1326, *et seq.* Section 5, clause (b) of said Act as quoted in your letter, as found in Burns’ (1957 Supp.), Section 63-1330, authorizes your Board to issue a license by reciprocity to a licensee of another state providing he furnishes your Board with evidence that the license granted him in the other state was issued ‘under qualifications substantially equivalent to those specified in this act.’ The burden of making such a showing is, therefore, to be discharged by the applicant. * * *

After specifically considering some of the necessary elements for licensure by reciprocity under said section of said statute, on page 3 of said opinion, it is stated: “The foregoing are qualifications for licensure in this State.” Said opinion in part concludes as follows:

“When the aforesaid requirements and qualifications have been furnished this Board, as shown by the appli-

cation to this Board, or in material submitted therewith, I am of the opinion this Board should issue a license by reciprocity * * *."

An examination of other sections of said statute reveal that provisions were made for a license, without examination, under section 5 (a) of said act [Burns' (1957 Supp.), Section 63-1330], and for licensure by examination under section 4 of said act [Burns' (1957 Supp.), Section 63-1329], which last two referred to provisions were in the nature of "grandfather clauses," for applicants meeting the specific requirements therein outlined and providing such applications were filed in the prescribed period of time after the effective date of the act. In addition to the foregoing under sections 2 and 3 of said act [Burns' (1957 Supp.), Sections 63-1327 and 63-1328], general provisions are made for issuance of licenses pursuant to examinations given by your Board. No time limit is provided in this part of the statute for the making of such an application, nor is any time limit prescribed for the making of an application for licensure by reciprocity under section 5 (b), *supra*, of said act.

Rule No. 23 of your Board, referred to in your letter, adopted in 1912 and re-enacted under the provisions of Ch. 120, Acts of 1945, necessarily concerned applications for licenses to practice under the general Medical Practice Act. It did not apply to the later enacted Chiropractic Act, especially if in conflict therewith.

Under the foregoing rules of statutory construction, and from a consideration of the act as a whole, as above detailed, I am of the opinion the Legislature in said Chiropractic Act has provided several separate formulas and procedures by which applicants may secure a license to practice chiropractic. I am therefore of the opinion the failure of an applicant to secure a license under one of the formulas specified would not bar his right to be licensed under another therein prescribed.

I am, therefore, of the opinion that the fact that an applicant has previously been denied a license to practice chiropractic by the Board of Medical Registration and Examination of Indiana, because of his failure to pass the chiropractic examination given by that Board, would not grant said Board the power or authority to deny a license to practice chiro-

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practic under the provisions of Acts of 1955, Ch. 42, Sec. 5 (b), *supra*, if such applicant meets all requirements of said section of said statute for licensure by reciprocity as outlined in Official Opinion No. 28 of this office issued April 28, 1958.

By the foregoing it is not here intended to qualify or supersede the scope and effect of the foregoing 1958 Official Opinion No. 28, except to answer the one question presented: That the prior failure of an applicant to pass a chiropractic examination given by the Indiana Board would not in and of itself preclude him from having the Indiana Board further consider and determine his eligibility to licensure under the reciprocity provisions of the statute. The general authority of the Indiana Board to consider and determine the right of chiropractic licensure by reciprocity is hereby fully recognized and reaffirmed as stated in said 1958 O. A. G., No. 28.

OFFICIAL OPINION NO. 53

October 14, 1958

Mrs. Corrine Henn, Director
Indiana State Personnel Bureau
311 W. Washington Street
Indianapolis 4, Indiana

Dear Mrs. Henn:

This is in reply to your letter of September 26, 1958, in which you request an Official Opinion relative to the granting of leaves with pay for educational purposes. Specifically you state seven examples of a variety of requests for educational leave with pay. These requests vary in amount from leave with reduced pay to leave with full pay and vary in period of time covered from brief periods to a very extended period.

The Acts of 1941, Ch. 139, Sec. 30, as found in Burns' (1951 Repl.), Section 60-1330, provides as follows:

"The rules shall provide for the hours of work, holidays, attendance regulation and leaves of absence in the various classes of positions in the classified service. They shall contain provisions for annual, sick, and special leaves of absence with or without pay or with