

“The rule is that where a remedy by appeal is provided, that remedy must be resorted to for the correction of all errors and irregularities.”

Young v. Sellers, Auditor (1885), 106 Ind. 101;
State *ex rel.* McKnight v. Rogers (1891), 131 Ind.
458;
Smith v. Hess (1883), 91 Ind. 424;
Hall v. Durham (1886), 109 Ind. 434.

Therefore, we are of the opinion the judgment of the Allen Court is binding and final and, according to said judgment, the Firemen and Mechanic's Insurance Company is a perpetual corporation and its contracts of insurance are entitled to be accepted by public officers.

OFFICIAL OPINION NO. 15

February 16, 1951.

Paul D. Williams, M.D.,
Medical Superintendent,
Richmond State Hospital,
Richmond, Indiana.

Dear Sir:

Your letter of January 31, 1951, has been received, in which you state you have an application for recommitment of a patient to your institution signed by a licensed osteopathic physician. You request an official opinion as to whether or not a licensed osteopath is authorized to execute such recommitment application forms within the meaning of the provisions of the statute.

The controlling statute is Chapter 69 of the Acts of 1927, same being Sec. 22-1202 *et seq.*, Burns' 1950 Replacement. The particular section on readmission is Sec. 27 of said Act, same being Sec. 22-1227, Burns' 1950 Replacement, the pertinent part of which reads as follows:

“No person who has ever been adjudged insane according to law, and has been formally discharged from any hospital for insane for any cause, shall again

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be admitted to any such hospital unless and until a sworn statement is filed with the clerk of the circuit court of the county in which such discharged patient resides by a reputable physician who is licensed to practice medicine in this state, declaring that such physician is acquainted with such patient, that such patient was formerly adjudged insane, that he was a patient of the _____ hospital for insane for a designated period of time, giving the date of his admission thereto and the date of his discharge therefrom, that such patient is now insane and a proper subject for treatment in a hospital for insane and that conveyance to a hospital for insane will not endanger the life of such discharged patient.* * **

Attention is also called to Sec. 4 of said Act, same being Sec. 22-1204, Burns' 1950 Replacement, as bearing on the question here presented, in that it states that on the original hearing for determination of sanity "the judge of the circuit or superior court shall appoint two (2) medical examiners, who shall be licensed to practice medicine in this state" to examine such person. Again the action for determination of the right of original admission requires that on the institution of such action the original petition to the court shall be certified to by a "reputable physician who is licensed to practice medicine in this state." (Sec. 3 of said Act, same being Sec. 22-1203, Burns' 1950 Replacement.)

It is a well recognized rule of statutory construction that statutes must be construed as a whole in order to determine the legislative intent.

Snider v. State ex rel. Leap (1934), 206 Ind. 474, 478;

State v. Ritter's Estate (1943), 221 Ind. 456, 469, 470.

It is also clear that courts will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567;

State ex rel. Bailey v. Webb (1939), 215 Ind. 609, 612.

It has been previously held by this office that an osteopath was a practicing physician within the meaning of Sec. 47-438, Burns' 1933, for the purpose of examining and certifying to the physical condition of an applicant for a chauffeur's license. (1943 Ind. O. A. G., p. 42.)

It is also true that under the Medical Practice Act (Sec. 63-1311, Burns' 1933) the practice of medicine is defined so as to include any act performed for the purpose of treating or relieving physical illness. This includes medical doctors, as well as drugless practitioners. However, it is to be born in mind that said statute is concerned with the licensing features of such practice and would not be controlling on the interpretation of the statute in question.

Prior to the enactment of Chapter 44 of the Acts of 1945, same being Sec. 63-1316, Burns' 1949 Supp., persons issued licenses to practice osteopathy were specifically licensed to practice osteopathy, surgery and obstetrics. By the provisions of the last referred to statute, any person holding a license to practice osteopathy, surgery and obstetrics issued by the Board of Medical Registration and Examination of Indiana, could apply for a right to take an examination in *materia medica* and, if they passed such examination satisfactorily, they were entitled to receive a new license from said board to practice "osteopathy, medicine, surgery and obstetrics," without limitation. By said statute, all licenses thereafter issued for persons taking such full examination for such subjects including *materia medica* would be issued a full license to practice osteopathy, medicine, surgery and obstetrics without limitation, as that is now the only form of new original licenses which may be issued to osteopaths.

From the foregoing, I am of the opinion that by the use of the words "reputable physician who is licensed to practice medicine in this state" in the statute governing certification for readmission to your hospital, *supra*, the legislature by using such words in that section of the statute, as well as in Sections 3 and 4 of said Act, intended the word "medicine" to convey the meaning synonymous with *materia medica* and to only authorize physicians to certify to such commitments who were authorized to practice *materia medica*. This would be consistent with the universal practice for many years before the enactment of said statute and consistent with the practice since the enactment of said statute.

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Your question is therefore answered that osteopaths licensed prior to 1945 who have made application for and taken an examination before the Board in *materia medica* and have been issued a new license to practice osteopathy, medicine, surgery and obstetrics, and all osteopaths licensed since the enactment of the 1945 statute, would be permitted to certify to such recommitment papers. In other words, it would be only those osteopaths who now have a license to practice osteopathy, medicine, surgery and obstetrics, as issued to them by the Board of Medical Registration and Examination of Indiana. Other osteopaths who hold only a license to practice osteopathy, surgery and obstetrics would not be legally authorized to certify as to the mental condition of such a person for readmission to your institution.

OFFICIAL OPINION NO. 16

February 15, 1951.

Mr. Albert Ellis,
Superintendent,
Indiana State Farm,
Greencastle, Indiana.

Dear Mr. Ellis:

Your letter of February 7, 1951, has been received and reads as follows:

“On September 20th, 1950 James C. Hill I. S. F. No. B-27713 was received at the Indiana State Farm with a Decree from the Circuit Court of Marion County. An exact copy of this Decree is being enclosed with this letter.

“As this Decree is from day to day with no specified term or charge given there is a question as to it being a legal commitment with which this man can be held for an indeterminate time. Such a commitment could extend into years or even a life time.

“I would appreciate receiving your Official Opinion as to whether or not this Decree is a legal commit-