A statute clear and unambiguous on its face needs no construction but should be given force and effect. Section 4502, Sutherland Statutory Construction, 3rd Edition.


The foregoing provisions of said statute are clear and unambiguous and from their plain wording authority is given the commission on general education of the Indiana State Board of Education to adopt and promulgate such rules and regulations as it may deem necessary regarding approval by the director of the Division of Schoolhouse Planning of the Indiana State Board of Education of any proposed modifications of or additions to existing school buildings, including the site therefor.

However, attention is called to Section 5 of said act which provides that any rules and regulations made by the General Commission of the Indiana State Board of Education shall not conflict with the codes or rules established by the Administrative Building Council, the State Board of Health, or the State Fire Marshal’s Office.

TLW:ar

OFFICIAL OPINION NO. 73

August 1, 1949.

C. A. Frech, D. D. S.,
Secretary, Indiana State Board
of Dental Examiners,
Gary National Bank Bldg.,
Gary, Indiana.

Dear Dr. Frech:

Your letter of July 25, 1949, received requesting an official opinion which may be summarized as follows:

An Indianapolis dentist died in February, 1949. His widow is attempting to sell the office and has hired a dentist to
operate the same until such time when she can sell. Her lawyer is contending that she has until one year after death in which to sell and cease operations. They are advertising the office as "formerly operated by the late Dr. ________ (decedent)" and still have his signs up.

You desire to know how long she may continue to operate this office and if she can, which they are, use the deceased doctor's name in their advertisements and continue the use of the decedent's signs, one of which is a neon sign.

Section 63-522, Burns' 1943 Replacement, same being Section 2, Chapter 308, Acts of 1943, provides in part as follows:

"Any person shall be said to be practicing dentistry within the meaning of this act who uses the word 'dentist' or 'dental surgeon' or the letters 'D. D. S.' or 'D. M. D.' or other letters of titles in connection with his name which in any way represents him as engaged in practice of dentistry; or owns or operates a dental office or is manager or conductor of the same; * * *

Section 63-523, Burns' 1943 Replacement, same being Section 13, Chapter 169, Acts of 1931, provides in part as follows:

"Any person, firm or corporation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment in the county jail for not less than thirty (30) days, or by both such fine and imprisonment, in the discretion of the court who: * * *

"* * *

"Shall practice dentistry under a false or assumed name, or under the license or registration of another person of the same name, or under a corporate, firm, association, parlor or trade-name, or shall hold himself out to public under such name, or names, as a practitioner of dentistry as defined in this act: * * *

A careful examination of the dental statutes fails to reveal any provision authorizing the continued operation of a dental office in case of death of the licensee and pending administra-
tion of his estate. In the absence of any such authority from the legislature I am of the opinion no such authority exists. Especially is this true where the operation of any such professional business without a license constitutes a violation of the regulatory and penal provisions of the statutes governing such profession.

Casual inspection of the provisions of the statute just quoted reveal that any one who owns or operates a dentistry office or is the manager or conductor of same is practicing dentistry within the meaning of the statute—this is forbidden without a license. It is also to be seen that these people could not contend it was being operated by the new dentist as he is not operating under his name but is operating under the name of another person who is deceased and whose license has expired.

While courts may, pending administration of decedent’s estate, make provisions for the continuity of operations during such period of administration, this would not apply to a profession where the license is personal to the decedent and where the continued operation of the business would in fact be in violation of the penal laws of the state.

From the foregoing I am of the opinion the operation of such business as outlined in your letter constitutes violation of the Dental Practice Act.

OFFICIAL OPINION NO. 74

August 2, 1949.

Mr. Deane E. Walker,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Walker:

Your letter of July 21, 1949, has been received requesting an opinion on the following question:

“Will you kindly give me a ruling as to whether the 1949 act of the Indiana State Legislature concerning