

It is my opinion, therefore, that the licensed dealer under conditions set out in the first situation above and the person who has paid the tax to the vendor who has assumed liability for its payment or has already paid the tax set out in the second situation is entitled to relief in the case of loss of gasoline upon which the tax has thus been paid.

The question remains as to how the problem should be handled in your office. It seems to me that it is entirely proper that the licensed dealer in such a situation would be entitled to take credit for the amount lost or destroyed in its next monthly report, provided the department shall adopt a rule setting out the details of how this may be done.

As to those covered by the second situation above described, it seems to me that some method should be found by which a direct refund could be made upon proper showing and in conformity with the rules of the department. In making such a refund, however, a deduction of 3 per cent should be made because of the original method of computing the tax payable to the state which allowed a deduction of a tare of 3 per cent to cover evaporation and unaccountable loss.

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**MEDICAL REGISTRATION AND EXAMINATION, STATE  
BOARD OF: Duty of Board to issue a license to practice  
chiropractic upon evidence of graduation from chiroprac-  
tic school; also required evidence of such graduation.**

February 3, 1937.

William R. Davidson, M. D.,  
Secretary, Indiana State Board of Medical Registration  
and Examination,  
Room 5, State House Annex,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion as to the duty of the Board with respect to the issuance of a license to practice chiropractic upon the application and supporting papers enclosed with your letter. This application seeks the issuance of a license to practice chiropractic pursuant to that part of section 2 of chapter 248 of the Acts of 1927, which provides that:

“any chiropractor or practitioner of any other system or method of healing, who is a graduate of a school or college teaching the system or method of healing which he practices, and who was on January 1, 1927, residing in the State of Indiana and practicing chiropractic or any other system or method of healing taught by the school or college of which he is a graduate, shall be given without examination a certificate for a license to practice the system or method of healing in which he has been so engaged.”

Acts of 1927, pages 727-28.

As I understand your letter, the particular question is limited to the question of the evidence of graduation which the Board may require. In the particular case under consideration, there is presented a copy of a certificate which is as follows:

“LINDLAHR SANITARIUM  
525 So. Ashland Ave.  
Chicago, Ill.

This is to certify that \_\_\_\_\_ has completed a course of study as taught in this LINDLAHR COLLEGE and has passed the examinations as required by the faculty of this institution whereof he is hereby graduated.

Dated this 5th day of December, 1926.

Signed, Henry Lindlahr, M. D.”

NOTE: The name of the applicant is deleted from the certificate.

Accompanying the file is a statement from the applicant to the effect that the named college at the time applicant attended it did not issue a diploma, but issued simply a certificate. He also calls attention to the fact that the certificate is, using his language, “properly attested to by an instructor who taught in the college when I graduated.”

It will be noted that the statute does not make any requirement as to how the fact of graduation shall be evidenced. The requirement is that the applicant shall be a graduate of a school or college teaching the system or method of healing which he practices. The question as to whether he is or is

not a graduate is a question of fact to be determined by the Board, from such evidence as may be submitted in support of that alleged fact.

In the consideration of this question, I do not think it is accurate to say that the only evidence of graduation would be a diploma, although that is the ordinary and usual method of attesting that fact which, I think, is current in all schools and colleges. I believe, however, that a certificate might be sufficient evidence of the fact upon a showing that such method was used rather than the issuance of a diploma.

I think it might be possible to establish the fact of graduation without either a diploma or certificate, upon a showing that such papers were lost or destroyed. In this particular case, however, there is evidence that it was customary to evidence a graduation by the issuance of a certificate which would undoubtedly be the best evidence of graduation. The copy which is furnished, however, does not seem to be certified to by the college but simply by an individual, without a showing of any particular relation to the college other than the similarity of name. I doubt whether this would be sufficient without further explanation than is in the file which you have furnished.

Summarizing, so far as the statute goes, all that it requires is graduation. The best evidence of graduation would be a diploma or other writing certified to by the institution from which the applicant graduated, and other evidence would not be proper without a showing of the loss or destruction of the best evidence.

The file in this case is somewhat conflicting in that the applicant states that the college did issue a certificate, but the copy which he furnishes does not on its face appear to have been issued by the institution. I think further evidence should be required as to what became of the certificate issued by the institution, if one was issued. And, further, if the institution is yet in existence and possesses records, those records doubtless would be sufficient authority for the issuance of a certificate as to the graduation of this applicant.

As stated earlier in this opinion, however, the question after all is a question of fact for the Board to determine upon the available information presented to it.

I return herewith your file.