desirable. It would in all probability result in a lower cost for materials than could possible be obtained in bids for small quantities only and it would, of course, save the cost of additional advertising. As already stated, the State Highway Commission Account Act seems to contemplate that there might be some cases in which chapter 112 of the Acts of 1919 would not be applicable.

The case referred to, in my opinion, is such a case and one to which the rule making authority of the commission expressly stated in the Act might very well apply. The commission proposes to make a regulation embodied in paragraph numbered 2, supra, which secures competitive bidding and, as pointed out, would probably result in a public saving. There might be some question as to whether the contractor bidding for the furnishing of materials for maintenance could be required to furnish these more or less small quantities of materials for use in construction under his contract, but this could easily be taken care of as to future contracts by including such items in the specifications which are made the basis for the bids. The proposed regulation as modified is approved.

MEDICAL REGISTRATION AND EXAMINATION, STATE BOARD OF: Not unethical or illegal for dentist to make x-ray pictures and plates for a physician.

January 26, 1938.

Hon. J. W. Bowers, M. D.,
Secretary Indiana State Board of Medical Registration and Examination,
301 State House,
Indianapolis, Indiana.

Dear Dr. Bowers:

I acknowledge receipt of your request for an official opinion in answer to the following inquiry:

"A dentist with a small X-ray machine has been making pictures of the extremities for a few physicians in a community. He makes the plate and neither attempts a diagnosis nor suggests any kind of treatment. He has had the only X-ray machine in the community
until recently when one of the physicians installed a small unit. This physician recently assailed the dentist and accused him of unethical and illegal practice in making plates, other than those of the teeth, for these physicians. (1) Is such practice unethical? (2) Is such practice illegal?"

In answer to your first question, Webster's New International Dictionary defines *unethical* as, "Not ethical; hence, not according to business or professional standards." Therefore *unethical conduct* would be synonymous with *unprofessional conduct*.

Reference is made to sections 63-518, Burns' Indiana Statutes Annotated, 1933, Supp., which defines unprofessional conduct of dentists from a legal standpoint.

"The term 'unprofessional conduct' as used in paragraph (9) shall mean and embrace any one (1) or more of the following practices: * * *"

There is then listed under this section twelve different practices which constitute unprofessional conduct. Taking X-ray pictures as described in your inquiry is not one of them. Therefore, your first question must be answered in the negative.

The answer to your second question will be strictly limited to the legality of a dentist in taking X-ray pictures of the extremities for physicians, such dentist neither attempting a diagnosis nor suggesting any kind of treatment. The answer will also be confined to cases where the X-ray was taken at the request of the physician for diagnostic purposes, and not as a means of treatment in itself.

Section 63-1311, Burns' Indiana Statutes Annotated, 1933, defines the practice of medicine to be as follows:

"To open an office for such purpose, or to announce to the public in any way a readiness to practice medicine in any county of the state, or to prescribe for, or to give surgical assistance to, or to heal, cure or relieve, or to attempt to heal, cure or relieve those suffering from injury or deformity, or disease of mind or body, or to advertise, or to announce to the public in any manner a readiness or ability to heal; cure or relieve those who may be suffering from injury or deformity,
or disease of mind or body, shall be to engage in the practice of medicine within the meaning of this Act. * * * It shall also be regarded as practicing medicine within the meaning of this Act, if any one shall use in connection with his or her name, the words or letters 'Dr.,' 'Doctor,' 'Professor,' 'M.D.,' or 'Healer,' or any other title, word, letters or designation intending to imply or designate him or her as a practitioner of medicine or surgery in any of its branches: * * *

And provided that this law shall not be construed to prevent any person who now holds or may hereafter obtain and hold a lawful license to practice any profession, calling or vocation, from practicing such profession, calling or vocation in accordance with the terms of such license: * * *"

It will be noted that the action of the dentist referred to in your inquiry does not come within any of the provisions of this section and he is not, therefore, practicing medicine.

It is common knowledge that many physicians refer certain types of their work to others who are not physicians; such as laboratory and X-ray work. These persons may properly be called technicians, and their work is done at the instance of the physician to assist him in arriving at a correct diagnosis. There is no statute that prohibits this practice.

No license or qualification is required in this state to take X-ray pictures or practice roentgenology.

It follows, therefore, that your second question is also answered in the negative.

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INSURANCE, DEPARTMENT OF: Insurance rates and schedules—deviation from rates—discount—Safe Driver Plan as illegal.

January 27, 1938.

Hon. George H. Newbauer,
Insurance Commissioner,
State of Indiana,
Indianapolis, Indiana.

Dear Sir:

In your letter of January 26, 1938, relative to automobile rate filings, you say that you are in receipt of a proposed