

well as the decision of the Indiana Supreme Court in the case of *In re McDonald, supra*, I am of the opinion that an applicant for registration as a barber, or as an apprentice barber, who perjures himself on his application is guilty of immoral conduct within the meaning of the provision of Burns' 63-314, *supra*. In such instances the board would be authorized to refuse to give such applicant the right to take an examination and to receive a certificate of registration, subject to the requirement that such refusal follow a determination made by the board at a hearing required by law. The refusal to permit an applicant to take an examination is tantamount to a refusal to issue a certificate of registration because of the fact that the examination is made a condition precedent to registration by virtue of Acts of 1933, Ch. 48, Sec. 8, as found in Burns' (1951 Repl.), Section 63-308.

Therefore, in answer to your question, it is my opinion that the Indiana State Board of Barber Examiners may refuse to give an examination to any applicant where such applicant has committed perjury in connection with his application for registration, subject, however, to the requirement that said board afford such applicant a hearing pursuant to law.

OFFICIAL OPINION NO. 70

December 8, 1961

Miss Ruth V. Kirk
Executive Secretary
State Board of Medical Registration and
Examination of Indiana
1021 State Office Building
Indianapolis 4, Indiana

Dear Miss Kirk:

Your letter of November 27, 1961, has been received and reads as follows:

"The Board of Medical Registration and Examination of Indiana in Executive Session on November 15, 1961 directed the writer to request an official opinion from you regarding Chapter 79, Acts of 1961, as it

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applies to Chapter 254, Acts of 1947, which chapter covers this Board's annual registration procedure.

"Our present procedure is to collect the annual fees July 1st and no later than August 31st, as prescribed in the Act. There are licensees who have permitted their license to lapse for failure to pay the annual fee, and we reinstate such licensees at varied times during the year by their payment of all delinquent fees, plus a \$10.00 penalty.

"Should we continue on the same basis and procedure as prescribed by Chapter 254, except, to collect the fees biennially instead of annually?"

Acts of 1947, Ch. 254, Sec. 1, as found in Burns' (1951 Repl.), Section 63-1317, provides as follows:

"Every person who now holds, or may hereafter hold, a valid and unrevoked certificate for a license to practice the healing art in any form or manner, granted by either the state board of medical registration and examination or by the board of medical registration and examination of Indiana, shall be required to register with the board of medical registration and examination of Indiana, in the form and manner determined by said board, during the month of July and not later than the last day of August, immediately following the effective date of this act, which registration shall be for the period ending June 30, 1948. Each person as above indicated shall, annually thereafter, on or before August 31st of each year, be required to register with said board. Each applicant for registration shall submit with his application the sum of five [\$5.00] dollars as the annual registration fee if he resides within the boundaries of the state of Indiana. All applicants residing outside the boundaries of the state of Indiana shall submit the sum of ten [\$10.00] dollars as the annual registration fee; Provided, that no registration or fee for registration shall be required of any holder of a certificate on or before the month of July of the year following the year within which such certificate was issued. Failure of any such certificate holder to regis-

ter and comply with the provisions of this act shall operate automatically to cancel his certificate, and any license issued thereunder and the continued practice after the cancellation of the certificate and license issued thereunder shall be considered as practicing without license. A certificate cancelled for failure to register may be reinstated by said board upon submission of the applicant's last registration certificate together with the current and delinquent fees and a penalty fee in the sum of ten [\$10.00] dollars."

Acts 1961, Ch. 79, Sec. 1, as found in Burns' (1961 Supp.), Section 42-106, is as follows:

"It is the declared intent of the general assembly by the enactment of this law to require those agencies which are authorized to issue the licenses, hereinafter designated in Section 2 hereof, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two [2] years duration rather than upon an annual basis, and at the time of issuance or reissuance, or at the time designated by law for the collection of fees therefor, to require the payment of such fees for a period of two [2] years rather than for one [1] year."

Acts 1961, Ch. 79, Sec. 2, as found in Burns' (1961 Supp.), Section 42-107, further provides:

"All permits, licenses, certificates of registration or evidences of authority granted by any state agency, but only as specifically enumerated in this section, shall be issued for a period of two [2] years rather than annually, such being for the right to engage in the following professions, occupations or businesses:

"Certified public accountants, architects, dry cleaners, athletic licenses for contestants and judges, professional engineers, land surveyors, insurance solicitors, insurance brokers, insurance agents, librarians, real estate brokers, real estate agents, security dealers

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licenses issued by the securities commissioner, watch repairing, barbers, barber shops, beauty shops, beauticians, manicurists, electrologists, dental hygienists, dentists, embalmers and funeral directors, veterinarians, physicians, chiropractors, physical therapists, nurses, optometrists, pharmacists and assistants, drug-stores or pharmacies, motels and mobile home park licenses.”

Acts 1961, Ch. 79, Sec. 3, as found in Burns’ (1961 Supp.), Section 42-108, further provides:

“Commencing with the effective date of this act [October 1, 1961], such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two [2] years and the dates by month and day which govern the issuance or reissuance of licenses for one [1] year shall govern the issuance or reissuance of licenses for two [2] years: Provided, That entire fees for a two [2] year period shall be payable before issuance thereof on the day and month designated for payment of fees for one [1] year licenses.”

The primary object of statutory construction is to ascertain and effectuate the intent of the Legislature as shown by the whole act, the law existing before its passage, the changes made and the apparent motive for making them.

State *ex rel.* Rogers v. Davis (1952), 230 Ind. 479, 482, 104 N. E. (2d) 382;

1955 O. A. G., pages 81, 90, No. 23.

When the above statutes are construed in accord with the foregoing authorities, it is clear the Legislature by the enactment of Acts 1961, Ch. 79, *supra*, primarily intended to require licenses issued for the above designated professions or occupations to be made for a two-year period rather than on an annual basis. The Legislature did not thereby intend to legislate upon, or to supersede, the provisions of any of the various separate statutes existing and governing the issuance of

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licenses by these different agencies of state government, except to the extent of any specific provision thereon appearing in said 1961 statute.

Since I find no specific provision in the 1961 statute requiring any change in the manner of issuance of licenses by your Board, other than a change from an annual to a biennial license, I am of the opinion said statute should be considered *in pari materia* and that your Board should continue to issue licenses on the same basis and procedure specified in Acts 1947, Ch. 254, as to the professions above enumerated in the 1961 statute, and within your jurisdiction, except that the same be issued biennially, instead of annually.

OFFICIAL OPINION NO. 71

December 12, 1961

Honorable William E. Wilson
Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Wilson:

Your letter of November 29, 1961, has been received and reads as follows:

“1. Can payment of Transfer Tuition claims for education of children of State Employees living on State Property be made from State funds under the provisions of Chapter 247 of the 1955 Acts in cases where the State Property on which such children reside is located in one county and the school which they attend is located in an adjoining county; provided it can be shown that attendance at the school in question is more economical and more convenient for such children?

“2. Can payment of such claims be made in cases where the residence of children of a State employee is located on a State Property and such children attend school in the school corporation where said State Prop-