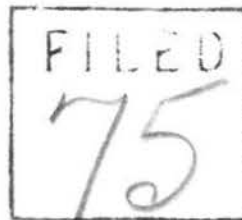


DENTISTS: Contents of window and door plate notices.

July 23, 1937

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Doctor R. R. Rhoades
Secretary Missouri Dental Board
Jefferson City, Missouri

Dear Doctor Rhoades:

This office is in receipt of your request for an opinion reading as follows:

"At the meeting of the Missouri Dental Board held in Kansas City, Saturday April 3rd, the question was discussed whether under the terms of our new law, a dentist would be allowed to have the words X-Ray or gas upon their window or door plate, also the use of a neon sign with the word dentist or X-Ray on such signs.

We have also had an inquiry whether it was legal for a dentist to have printed upon his receipts he gives to his patients after payment of their account, the word X-Ray and gas.

We have had many inquiries about this after sending a copy of the new law to each dentist throughout the State, therefore we are very anxious to get a written opinion from you, so we might advise them on these matters."

We shall answer your questions in the order in which they have been asked.

I.

Dentists may not use words
"X-Ray" or "Gas" upon their
window or door plate.

The Dental Practice Act is very specific in respect to this question. Section 13566 authorizes the revocation of a dentist's certificate of registration or his license, or both, upon the grounds therein set out. In the last part of this section it is specifically stated that:

"any dentist licensed under this act may announce by way of professional card containing only the name, title, degree, office, location, office hours, phone number and resident address and phone number if desired, and if he limits his practice to a specialty he may announce it but such cards shall be not greater in size than three and a half inches by two inches* * *or he or she may* * *display the name of the licensee on the premises where engaged in the profession upon the windows thereof and by a door plate or a name or office directory when the information is limited to that of the professional card.
* * * *Provided, that the name and title of the registrant shall not be displayed in lettering larger than seven inches in height.* * *"

These specific and plainly chosen words indicate with brevity and clarity the information which a dentist may lawfully and legally place upon his door plate or upon the window of his establishment. The maxim "expressio unius est exclusio alterius" is never more applicable than in construing statutes. Keane vs. Strodtman, 18 S. W. (2) 896. Clearly this is a proper place for the application of this maxim. The legislature has expressly stated what may be permitted to be placed on the window or door

plate of the premises wherein the licensee is operating, and by so doing have excluded the use of any other words or information upon the window or upon the door plate.

CONCLUSION.

It is therefore the opinion of this office that under the provisions of the Dental Practice Act the words "X-Ray" or "Gas" may not be used upon the window or door plate of a registered and licensed dentist of this state, as such would violate the terms and spirit of Section 13566 as contained in that act.

II.

Dentist may not advertise
by means of a neon sign.

You next inquire as to the use of a neon sign in connection with the words "Dentist" or "X-Ray". Section 13566 is also specific in respect to advertising by means of light signs and after providing that a dentist's certificate of registration or license, or both, may be revoked or suspended for any of the following causes, provides:

"for unprofessional or dishonorable conduct or for gross ignorance or inefficiency in his or her profession. Unprofessional conduct shall include, but not by way of limitation, * * * advertising, directly or indirectly, by means of large display, glaring light signs, or containing as a part thereof the representation of a tooth, teeth, bridge work or any portion of the human head; * * *"

A proper interpretation of this phrase is essential to the correct solution of your request. In the first place, it must be remembered that each word or term used in the statute is presumed to be used by the legislature in its ordinary and usual sense and should be accorded its ordinary meaning. *O'Malley vs. Continental Life Insurance Company*, 95 S. W. (2) 837, 335 Mo. 1115. Giving the afore quoted phrase further consideration it

appears that there are three kinds of advertising which are prohibited thereby. First, advertising by means of large display signs. Second, advertising by means of glaring light signs. Third, advertising containing as a part thereof the representation of a tooth, teeth, bridge work or any portion of the human head.

It is quite apparent that the use of the comma after the word display, is used to indicate omitted words, the words omitted being "by means of". As heretofore stated words or terms used in statutes are to be given their meaning. The comma, as defined in Webster's International Dictionary is referred to as follows:

"Punctuation. A point (now,) used to mark the smallest structural divisions of a sentence. In present usage it primarily makes clear the grammatical grouping, rather than indicates rhetorical pauses, and is generally employed; (1) to set off words, phrases, and clauses that are independent, parenthetical, or appositional; as 'Hail, Caesar!'; (2) to indicate omitted words; as, 'Mishap might divide them; Mistrust, never.'; (3) to separate words and phrases of like construction used in a series; as, 'the virtues of faith, hope, and charity.' (4) To mark off phrases and clauses of a complex or compound sentence."

The comma in this phrase clearly takes the place of omitted words for otherwise it could be entirely eliminated.

The word "glaring" as defined in Webster's Dictionary is in part as follows:

"Glaring, p.a. * * *Emitting or reflecting a bright or dazzling light; dazzling, vivid; brilliant."

"Glaring" as used in its ordinary sense and recognized by the courts is as Webster has defined it. It means "bright, dazzling". Connolly vs. Cincinnati, No. & T.P. Company, 224 S.W. 670, 189 Ky. 123.

There cannot be any doubt but what Neon Signs are bright and dazzling. In fact the universal adoption by business and merchandizing establishments for the purpose of catching the eye of prospective customers proves beyond a question of a doubt that that type of sign is bright, vivid, dazzling and instantaneously catches the eye of all who pass by.

CONCLUSION.

The conclusion is inescapable that neon signs constitute "glaring light signs", and therefore advertising by registered and licensed dentists by such means is specifically prohibited by Section 13566 of the new Dental Practice Act.

III.

Use of the words "X-Ray"
and "Gas" upon receipts
not specifically prohibited,
but may constitute unpro-
fessional or dishonorable
conduct.

As heretofore stated, Section 13566 of the new Dental Practice Act authorizes the revocation of the certificate of registration or license "for unprofessional or dishonorable conduct". While a number of acts are specifically determined to be unprofessional conduct, the specification there made is general and not to be construed as a limitation upon the use of the term. By the second paragraph of part three of this section the act specifically designates what may be placed upon the professional card of a licensed and registered dentist, what may be placed in "public print", what may be placed on a card announcing change of place of business, absence from or return to business, what may be placed on "appointment cards", what may be displayed on the premises where the dentist is engaged in the practice, what may be displayed upon the windows of such premises, on the door plate, and what may be placed in the name or office directory. Each and every one of these means of announcement and display, is limited to the information contained on the professional card, to-wit, the name, title, degree, office location, office hours, phone number, residence address and phone number and the speciality practice, if such is the case. In each and every one, the use of the term

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"X-Ray" and "Gas" is excluded. It is therefore difficult to believe that the spirit or purpose of these provisions would permit the use of these words "X-Ray" and "Gas" upon the receipt issued by the practitioner. While the act does not in clear terms specifically forbid the use of these words on a receipt, yet the use of a receipt with these words upon it would not be consistent with the spirit of the act. Whether or not the use of such words would constitute dishonorable and unprofessional conduct is a decision which must be first made by the Dental Board. The statute places that duty upon the Board, which responsibility must be met.

The foregoing is based upon the assumption that the terms "X-Ray" and "Gas" do not constitute the identification of a "specialty". It must be remembered that Section 13566 authorizes a dentist, if he limits his practice to a specialty, to designate or announce such specialty. If a dentist limited his practice to the taking of "X-Ray" pictures or to the administering of "Gas" a different situation might be presented.

CONCLUSION.

It is the opinion of this office that the new Dental Practice Act, passed by the Fifty-Ninth General Assembly and approved by the Governor March 15, 1937, does not in specific terms forbid the use of the words "X-Ray" and "Gas" on receipts issued by practitioners of dentistry, but that the use of such words in such manner may constitute unprofessional or dishonorable conduct which in turn constitutes the ground for the revocation of a dentist's certificate of registration or license, or both, under the provisions of Section 13566 as enacted at the 1937 session of the Missouri Legislature, unless such practitioner limits his practice to the taking of "X-Rays" or to the administration of "Gas", in which case such specialty might be indicated on his receipt just as it is permissible to indicate it on his professional card or the window of the premises at which he operates.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General