

DENTISTS:
SURGERY:

A dentist may legally perform
biopsies and diagnose malignant
growths of surfaces inside the
oral cavity

OPINION NO. 104

January 22, 1971

Reuben R. Rhoades, D.D.S.
Secretary
Missouri Dental Board
415 Central Trust Building
Jefferson City, Missouri 65101



Dear Dr. Rhoades:

This is in response to your letter requesting an opinion on the legality of "a dentist performing biopsies and diagnosing malignant growths in the mouth and surrounding tissue." From subsequent discussion with you, it is our understanding that your question pertains to biopsies and diagnoses of surfaces inside the oral cavity. It is our further understanding that a biopsy entails the surgical removal of specimen tissues of the body for purposes of examination and diagnosis.

Chapter 332, RSMo 1969, establishes the Missouri Dental Board, and sets forth the statutory requirements under which dentistry may be practiced in this State. Section 332.071 defines the practice of dentistry as follows:

"A person or other entity practices dentistry within the meaning of this chapter who:

"(1) Undertakes to do or perform dental work or dental services or dental operations or oral surgery, by any means or methods, gratuitously or for a salary or fee or other reward, paid directly or indirectly to him or to any other person or entity;

"(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

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"(8) Attempts to or does perform or do any preventive, remedial, corrective, or restorative dentistry or dental service or dental operation in the human mouth;"

It is apparent that the legislature has used very broad language in describing those procedures encompassed within the practice of dentistry. A biopsy consists of the surgical removal of tissue, and the legislature has defined the practice of dentistry to include "oral surgery" and the treatment of "any disease or disorder or lesions of the oral regions." With reference to diagnosis, Section 332.071 states that a dentist "[d]iagnoses . . . any disease . . . of human teeth or adjacent structures."

We believe the words "adjacent structures" are broad enough to include all surfaces within the oral cavity. It is a fundamental rule of statutory construction that words used by the legislature should be given their plain and ordinary meaning. State ex rel. State Highway Commission v. Wiggins, 454 S.W.2d 899 (Mo. 1970). This rule is specifically applied to Missouri statutes with the sole exception of "technical words and phrases having a peculiar and appropriate meaning in law." Section 1.090, RSMo 1969.

You have informed us that the phrase "adjacent structures" has no technical dental or medical meaning. Black's Law Dictionary 4th Ed., (1951) defines "adjacent" as follows:

"Lying near or close to; sometimes, contiguous; neighboring. Ex parte Jeffcoat, 108 Fla. 207, 146 So. 827. Adjacent implies that the two objects are not widely separated, though they may not actually touch, Harrison v. Guilford County, 218 N.C. 718, 12 S.E.2d 269, while adjoining imports that they are so joined or united to each other that no third object intervenes. Wolfe v. Hurley, D.C.La., 46 F.2d 515, 521."

The Supreme Court of Missouri has said that objects need not touch each other to be adjacent, but must be close to each other. Hauber v. Gentry, 215 S.W.2d 754 l.c. 758 (Mo. 1948). We believe that surfaces inside the oral cavity are sufficiently close to the teeth, to be adjacent structures within the meaning of Section 332.071(2), and, therefore, properly within the diagnostic function of dentistry

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CONCLUSION

It is the opinion of this office that a dentist may legally perform biopsies and diagnose malignant growths of surfaces inside the oral cavity.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and "D".

JOHN C. DANFORTH
Attorney General