

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

Glen R. Hansen, D.M.D, Secretary

Supervision of Dental Hygienist

SYLLABUS:

The practicing of dental hygiene as part of the formal training of a dental hygienist requires the presence of a licensed dentist.

FACTS:

A school of Dental Hygiene employs three dental hygienists to serve as instructors and schedules licensed dentists on a volunteer basis to be present whenever the students practice dental hygiene on patients.

QUESTION:

Does Maine Dental Law require a licensed dentist to be present when students practice on patients?

OPINION:

Yes.

REASONS:

32 M.R.S.A. § 1095 states:

Dental Hygiene shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from directly beneath the free margins of the gums; the making of x-ray exposures of teeth and surrounding tissues; the clinical examination of the teeth and surrounding tissues for carious lesions, periodontal pockets and other abnormal conditions; the obtaining and recording of basic medical and dental histories and information; the instruction of patients in proper tooth care; the application of fluoridies or other substances beneficial in the control of caries; the application of desensitizing agent; the polishing and smoothing of rough edges of restorations, and the cementing of facings and pontics outside of a patient's mouth; provided that nothing in Maine Revised Statutes shall be so construed as to effect the practice of medicine or dentistry nor to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors; and, *provided that nothing in Revised Statutes shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth without general supervision of a dentist within a dentist's office, a public or private institution, or for the Department of Health and Welfare. (Emphasis supplied.)*

As long as the acts which the students perform are not acts amounting to the practice of dentistry, but are acts that a student may perform under conditions indicated in the provisions of § 1095 above, i.e., under supervision of their instructor, they are proper.

However, the instructors, being licensed Dental Hygienists, must have general supervision by a licensed dentist when performing any operation in a patient's mouth.

GARTH K. CHANDLER
Assistant Attorney General

May 19, 1969

To: Ernest H. Johnson, State Tax Assessor, Bureau of Taxation

Subject: Insurance Premium Tax

SYLLABUS:

THE INSURANCE PREMIUM TAX APPLIES TO AN INSURANCE COMPANY THAT SELLS INSURANCE SOLELY THROUGH THE MAIL ON RISKS LOCATED OR RESIDENT IN MAINE; IS NOT LICENSED; AND HAS NO AGENTS, REPRESENTATIVES, EMPLOYEES OR PLACE OF BUSINESS IN THE STATE OF MAINE.

ASSESSMENT MAY BE MADE FOR PREMIUMS COLLECTED AND NOT TAXED IN PRIOR YEARS.

FACTS:

The insurance premium tax is administered under sections 2511 through 2522 of Title 36 of the Revised Statutes. Imposition of the tax is provided in 36 M.R.S.A. § 2513:

Every insurance company or association which does business or collects premiums or assessments including annuity considerations in the State . . . shall, for the privilege of doing business in the State, and in addition to any other taxes imposed for such privilege annually pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year.

A question has arisen regarding the taxation of unlicensed insurance companies and more particularly unlicensed companies that are doing business from locations outside the State solely by mail.

QUESTIONS:

1. Does the insurance premium tax apply to an insurance company if it is not licensed by the Insurance Department, 'has no agents, representatives, or place of business in the State of Maine, but sells insurance solely through the mail on risks located or resident in Maine?

2. If such a company is liable for the insurance premium tax, can assessment now be made for premiums collected in prior years?

ANSWERS:

1. Yes.
2. Yes.