

State Board of Dental Examiners, Authority of. Dental Examiners, Power of Board. License to Practice Dentistry, When Must Issue. Foreign Dentist, When Entitled to License Without Examination.

The State Board of Dental Examiners may exercise its discretion as to the granting of license to those presenting certificates from another state.

February 6, 1915.

Doctor G. A. Chevigny,
Sec'y State Board of Dental Examiners,
Butte, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 2nd instant, submitting the question:

"Is it compulsory on the State Dental Board to issue a license to an applicant who presents to said Board the certificate of a foreign state, containing the statements required by Section 1576, Revised Codes, as amended by Chapter 132, Session Laws of 1909?"

It will be noticed that in this section the word "may," is used with reference to the power of the Board to grant the license mentioned in said Section. Hence, the meaning of the Section as to whether its terms are mandatory must be determined by the meaning given to the word "may," as used therein. Section 15 of the Revised Codes, provides:

"Words and phrases are construed according to the context and the approved usage of the language."

"The word 'may' according to its ordinary construction 'is permissive and should receive that interpretation unless such construction would be obviously repugnant to the intention of the legislature, and would lead to some other inconvenience or absurdity.'"

Modbury v. Swan, 46 N. Y. 200;
5 Words & Phrases, 4420;
26 Cyc. 1590.

It is also quite generally held that this word when used with reference to the duty of the public officer or public board should be read "must" or "shall." Hence, it becomes in such cases mandatory, unless the context gives it the permissive meaning; but whatever may have been the intention of the legislature with reference to the meaning to be attached to this word, it is very apparent that it was the intention of the legislature that this should be a reciprocity statute; that is, that it should grant to dentists of other states coming to this state, the same privileges and rights that are granted by such state to dentists going there from this state. The applicant in this state, as I am informed, presents to the Board a certificate from the State of Kentucky. Section 15 of Chapter 95, Session Laws of the State of Kentucky, 1912, which

Section is entitled "Dental Reciprocity," provides with reference to the authority of the State Dental Board:

"Said Board may in its discretion issue a license to practice dentistry without examination, etc,"—

then follows provisions similar to those found in the Section of the Montana law, above referred to. This Kentucky law, it will be noticed, is clearly permissive, because by the terms of the law, the granting of the license to such foreign dentists is placed within the discretion of the State Dental Board, and as the Montana law and the Kentucky law are both reciprocal statutes, words used in the two laws must be given the same meaning. Hence, the word "may", as used in the Montana law, must be construed as permissive, because that is the construction given to it by the positive terms of the Kentucky law.

You are, therefore, advised, that the Montana State Board of Dental Examiners may exercise its discretion as to the granting of licenses to those presenting certificates from a foreign state, under the provisions of said Section 1576, as amended.

Yours very truly,

D. M. KELLY,

Attorney General.