

School of Dentistry, requirements for instructors

Number: INFORMAL

Date: April 09, 2003

The Honorable James E. "Jim" King, Jr.
President, The Florida Senate
Suite 409, The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

RE: DENTISTRY--DENTISTS--UNIVERSITIES--LICENSURE--ORTHODONTICS--requirements for "school of dentistry"; licensure requirement for instructors who are out-of-state dentists acting as instructors. Chap. 466, Fla. Stat.; s. 466.002, Fla. Stat.

Dear Senator King:

You have requested my opinion on substantially the following questions:

1. Is the Jacksonville University Graduate Dental Program a "school of dentistry" for the purposes of Chapter 466, Florida Statutes?
2. Is an out-of-state dentist entitled to the exemption from having to comply with the licensure requirements of Chapter 466, Florida Statutes, pursuant to section 466.002(6), Florida Statutes, while performing regularly assigned duties as an instructor under the curriculum of the Jacksonville University Graduate Dental Program?
3. If the answer to Question 2 is in the affirmative, in what situation would an out-of-state dentist need to obtain a teaching permit, *i.e.*, when is the second sentence of section 466.002(6), Florida Statutes, applicable?

Jacksonville University plans to establish an orthodontics graduate program. All of the students in the program will be graduates of accredited dental schools and most will be dentists licensed to practice in their respective home states. Faculty will consist of licensed dentists with specialties in orthodontics, but who may not be licensed in Florida. Several questions have arisen regarding the program.

Question One

Chapter 466, Florida Statutes, regulates the practice of dentistry in Florida. "Dentistry" is defined as

"the healing art which is concerned with the examination, diagnosis, treatment planning, and care of conditions within the human oral cavity and its adjacent tissues and structures. . . ."

The term also includes:

"(c) The placing of an appliance or structure in the human mouth or adjusting or attempting to adjust the same.

* * *

(f) Diagnosing, prescribing, or treating or professing to diagnose, prescribe, or treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region.

* * *

(h) Correcting or attempting to correct malformations of teeth or of jaws."

There is no definition provided for "orthodontics" or "orthodontia," nor does Florida law regulate orthodontics separately from the practice of dentistry. Orthodontics, however, is a recognized area of specialty dental practice for which the American Dental Association (ADA) accredits institutions.[1]

Florida law does not contain a definition for "school of dentistry." Nor do the statutes provide criteria that would be applied to make such a determination. Rather, Chapter 466, Florida Statutes, recognizes that dental schools may be accredited by the Commission on Accreditation of the American Dental Association.[2] You have advised this office that the program at Jacksonville University has received preliminary approval for accreditation from the ADA.

In the absence of statutory criteria for determining what constitutes a "school of dentistry," this office cannot make an independent determination that the program at Jacksonville University would qualify as a "school of dentistry." However, the activities proposed to be accomplished by the program, i.e., the specialty training in orthodontics of dentists who have graduated from accredited institutions, clearly fall within the scope of Chapter 466, Florida Statutes.

Question Two

Section 466.002, Florida Statutes, exempts certain persons from the provisions of that chapter. Specifically, subsection (6), states that instructors in Florida schools of dentistry, "while performing regularly assigned duties under the curriculum of such schools," are entitled to the exemption. Since the Jacksonville University graduate dental program, as described, falls within the scope of Chapter 466, Florida Statutes, instructors in that program would be exempt from regulation under Chapter 466, Florida Statutes, while performing those duties.

Question Three

Section 466.002(6), Florida Statutes, the provision about which you inquire, exempts:

"Instructors in Florida schools of dentistry or dental hygiene or dental assistant educational programs, while performing regularly assigned duties under the curriculum of such schools. A full-time dental instructor at a dental school approved by the board may be allowed to practice dentistry at the teaching facilities of such school, upon receiving a teaching permit issued by the

board, in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school."

Rule 64B5-7.005(1), Florida Administrative Code, relating to teaching permits, provides that a teaching permit may be issued by the Florida Board of Dentistry to a faculty member of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association upon the request of the dean of the school, if the faculty member:

"(a) Has not failed the Florida dental licensure examination; and

(b) Is a full-time faculty member; and

(c) Does not engage in the practice of dentistry, except under the programs of the dental . . . school described in 64B5-7.005(1)."

Thus, a dentist licensed by another state, wishing to practice dentistry at the teaching facility, must obtain a teaching permit from the Board of Dentistry, which would authorize him or her to engage in the practice of dentistry at a school accredited by the American Dental Association. Such a teaching permit however, would only allow the individual to practice dentistry within the confines of the orthodontics program at the dentistry school.

Sincerely,

Charlie Crist
Attorney General

CC/tgk

[1] Accreditation Standards for Advanced Specialty Education Programs in Orthodontics and Dentofacial Orthopedics, Commission on Dental Accreditation, Orthodontics and Dentofacial Orthopedics Standards, p. 4 (January 1, 2000). According to the American Dental Association, orthodontics is

"that area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacila structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex."

Id. preceding Table of Contents.

[2] See s. 466.006(2)(b), Fla. Stat. However, s. 466.006(3), Fla. Stat., recognizes that graduates of a dental college or school "not accredited" or "approved by the board" may sit for examination if specified criteria are satisfied.