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59 Ops. Cal. Atty. Gen. 420, 1976 WL 23205 (Cal.A.G.)

Office of the Attorney General
State of California

Opinion No. CV 76-50

August 26, 1976

THE HONORABLE EUGENE A. CHAPPIE
ASSEMBLYMAN FOR THE 3RD DISTRICT

THE HONORABLE EUGENE A. CHAPPIE, ASSEMBLYMAN FOR THE 3RD DISTRICT, has requested an opinion on the following question:

Can a chiropractor, by virtue of his license, practice the art of or claim to be an anatomist, neurologist, cardiologist, diagnostician, physiologist, chemist, bacteriologist, hygienist, pediatrician, dermatologist, syphilologist, endocrinologist, psychiatrist, gynecologist, obstetrician, physiotherapist, orthopedist, ophthalmologist, roentgenologist, dietician, or anything except a chiropractor?

Our conclusions are that by virtue of holding a chiropractic license:

1. A chiropractor cannot practice the art of anything but chiropractic; however, a chiropractor may employ concepts of anatomy, bacteriology, diagnosis, physiology, chemistry, hygiene, physiotherapy, and dietetics in a limited and circumscribed manner, so long as the employment of such concepts does not exceed the limits of the practice of **chiropractic**;
2. A chiropractor cannot, solely by virtue of his **chiropractic** license, claim to be anything other than a chiropractor.

ANALYSIS

The question presented poses two distinct issues. First, what 'arts' can a chiropractor 'practice' by virtue of his **chiropractic** license. Second, what can a chiropractor 'claim to be' by virtue of his license. The answers will be considered separately.

1. Licensing of chiropractors in California is carried out pursuant to the **Chiropractic Act**, Initiative Measure, Statutes of 1923, page 1xxxviii, adopted by the electorate on November 7, 1922, (hereinafter referred to as the 'Act'). The only section of the Act which defines the practice of **chiropractic** is section 7, which provides:

'One form of certificate shall be issued by the board of **chiropractic** examiners, which said certificate shall be designated 'License to practice **chiropractic**,' which license shall authorize the holder thereof to practice **chiropractic** in the State of California as taught in **Chiropractic** schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.'

The scope of the authorization set forth in this section has been definitively and consistently interpreted by the courts of this state. The most recent articulation is set forth in an exhaustive interpretation of this section in Crees v. California State Board of Medical Examiners, 213 Cal.App.2d 195 (1963), following a line of earlier cases. See People v. Fowler, 32 Cal.App.2d Supp. 737 (1938); People v. Mangiagli, 97 Cal.App.2d Supp. 935 (1950); People v. Augusto, 193 Cal.App.2d 253 (1961).

*2 As late as 1963, it remained the opinion of our courts that the permissible limits of practice by the holder of a **chiropractic** license do not extend beyond the scope of **chiropractic** as that term was understood and defined in 1922, and that the attempts of **chiropractic** schools or colleges to extend these limits by teaching other subjects under the guise of **chiropractic** must fail, as must attempts to extend the limits through alleged practices which have developed in the **chiropractic** profession itself. Crees v. California State Board of Medical Examiners, *supra*, at 205-207.

In approving a finding of the superior court, the Crees court defined the 'art' that a chiropractor is authorized to practice as:

“. . . a system of treatment by manipulation of the joints of the human body by manipulation of anatomical displacements, articulation of the spinal column, including its vertebrae and cord, and he may use all necessary, mechanical, hygienic and sanitary measures incident to the care of the body in connection with said system of treatment, but not for the purpose of treatment, and not including measures as would constitute the practice of medicine, surgery, osteopathy, dentistry, or optometry, and without the use of any drug or medicine included in materia medica.

“A duly licensed chiropractor may make use of light, air, water, rest, heat, diet, exercise, massage and physical culture, but only in connection with and incident to the practice of chiropractic as hereinabove set forth.” (Emphasis added.) (213 Cal.App.2d 195, 202, 214.)

See also Title 16, Cal.Admin.Code § 302(a).

The authorities have consistently held, as well, that the practice of **chiropractic** may not invade the field of medicine and surgery. People v. Fowler, *supra* at 748-749; People v. Mangiagli, *supra* at 940-941 (stating, in addition, that said prohibition set forth in section 7 of the Act, does not provide or imply that a **chiropractic** licensee may engage in every sort of practice not listed as forbidden); People v. Augusto, *supra*, at 257-258. Crees v. California State Board of Medical Examiners, *supra*, states this proposition succinctly:

‘The only effect of the enactment of the Chiropractic Act on the Medical Practice Act was to create a limited exception to the prohibition against practicing a healing art without a license from the Board of Medical Examiners; that a holder of a license to practice chiropractic may practice chiropractic (not medicine or surgery); and that is the limit of the exception.’ (213 Cal.App.2d at 209).

See also Quail v. Industrial Acc. Com., 138 Cal.App. 412, 417 (1934), (chiropractor is not a specialist regarding diseases of the internal organs, and is precluded by statute from practicing medicine.)

Numerous opinions of our office are in accord. See 58 Ops.Cal.Atty.Gen. 595 (1975) and 58 Ops.Cal.Atty.Gen. 558 (1975) (chiropractor may not perform colonic irrigations as this constitutes the practice of medicine); 39 Ops.Cal.Atty.Gen. 228 (1962) (chiropractor may not perform venipuncture or piercing of tissue to draw blood specimen as this constitutes the practice of medicine); 29 Ops.Cal.Atty.Gen. 178 (1957) (chiropractors may not remove hemorrhoids by certain procedures); Ops.Cal.Atty.Gen. No. NS812 (1938) (making of chemical test upon human by chiropractor in order to diagnose is within the purview of practice of medicine); Ops.Cal.Atty.Gen. No. NS 1962 (1939) (chiropractor may not engage in obstetrics).

*3 In addition, Business and Professions Code section 2137 defines the authority and scope of practice of a licensed physician and surgeon in broad and sweeping language. It states:

‘The physician's and surgeon's certificate authorizes the holder to use drugs or what are known as medical preparations in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, or other physical or mental conditions.’

Section 7 of the Act must be read and considered in relation to this section. 9 Ops.Cal.Atty.Gen. 309 (1947).

In the face of these extensive authorities, no basis, legal or otherwise, appears to exist upon which to extend the scope of **chiropractic** practice. Thus, such practice continues to be limited to that which is stated in the Crees opinion. By virtue of this definition of the 'art' which a chiropractor is licensed to practice, it appears clear that the 'art' and practice necessarily involved in the specialized medical fields of neurology, cardiology, pediatrics, dermatology, syphilology, endocrinology, psychiatry, gynecology, obstetrics, orthopedics, ophthalmology, and roentgenology are outside the scope of the practice of **chiropractic**, and may not be practiced. It is the opinion of this office that these terms are so identified with medical specialties of physicians and surgeons, that a court would take judicial notice of such a fact; these are facts which 'are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.' Cal.Evid.Code, § 452 subd. (h). (See e.g., the definitions of said medical specialties as set forth in Stedman's Medical Dictionary (22nd Edition, 1972).)

However, with respect to the specialized fields of anatomy, bacteriology, diagnosis, physiology, chemistry, hygiene, physiotherapy, and dietetics, the conclusion is somewhat different. It is the opinion of this office that concepts contained in these 'arts' may be utilized by a chiropractor in a limited and circumscribed manner so long as said use does not exceed the limits of the practice of **chiropractic**. These 'arts' do not fall exclusively within the purview of the practice of medicine. See Stedman's Medical Dictionary, supra.

An earlier opinion of this office has concluded that the practice of **chiropractic** includes diagnosis. 9 Ops.Cal.Atty.Gen. 309, 310 (1947). This view is correct if for no other reason but that in many instances it is necessary for a chiropractor to determine that a patient's difficulty or ailment is outside the permissible scope of his own practice. (See e.g., 19 Ops.Cal.Atty.Gen. 201, 203 (1952)). It is felt that in order to properly diagnose, a chiropractor should be able to draw upon concepts of anatomy, physiology, and chemistry, so long as in doing so, he does not exceed the limits of the practice of **chiropractic** as set forth hereinabove.

*4 Furthermore, it is concluded that a chiropractor may make use of concepts of hygiene, physiotherapy, and dietetics 'in connection with and incident to' the practice of **chiropractic** as a system of treatment as defined hereinabove, but not in any manner as a separate field or profession. Crees v. California State Board of Medical Examiners, supra, at 202, 214.

2. Irrespective of the matters discussed above, it is the opinion of this office that a chiropractor cannot 'claim to be' anything other than a chiropractor solely by virtue of his **chiropractic** license. Section 15 of the Act provides in pertinent part:

'[A]ny licensee under this act who uses the word 'doctor' or the prefix 'Dr.' without the word 'chiropractor,' or 'D.C.' immediately following his name, or the use of the letters 'M.D.' or the words 'doctor of medicine,' or the term 'surgeon,' or the term 'physician,' or the word 'osteopath,' or the letters 'D.O.' or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he held no license from the State of California . . . shall be guilty of a misdemeanor. . . .'

It is the opinion of this office that the language of this section is to be strictly construed. 8 Ops.Cal.Atty.Gen. 224 (1946) (chiropractor may not use the term '**chiropractic** physician'); People v. Christie, 95 Cal.App.2d Supp. 919, 922 (1949) (holding that section 15 of the Act specifically denies a chiropractor the right to employ the word 'physician'); Oosterveen v. Board of Medical Examiners, 112 Cal.App.2d 201, 205-206 (1952); and Dare v. Bd. of Medical Examiners, 21 Cal.2d 790, 802 (1943) (latter two cases holding that chiropractors may not refer to themselves as doctors of naturopathy).

In addition, since it has been determined that the enumerated 'specialties' do not fall within the limits of the practice of chiropractic (except in the circumscribed manner discussed above), there is no apparent basis or rationale which would justify the use of the enumerated titles either by a chiropractor, or in conjunction with the term 'chiropractic.' This

conclusion is supported by the restrictions set forth in section 15 of the Act, supra, and the limited definition attached to the practice of chiropractic.

Accordingly, it is concluded that solely by virtue of holding a chiropractic license:

1. A chiropractor cannot practice the art of anything but chiropractic, however, a chiropractor may employ concepts of anatomy, bacteriology, diagnosis, physiology, chemistry, hygiene, physiotherapy, and dietetics in a limited and circumscribed manner, so long as the employment of such concepts does not exceed the limits of the practice of chiropractic as defined hereinabove;
2. A chiropractor cannot, solely by virtue of his chiropractic license, claim to be anything other than a chiropractor.

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