



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

March 5, 1987

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 87- 42

The Honorable Dale M. Sprague  
State Representative, Seventy-Third District  
State Capitol, Room 112-S  
Topeka, Kansas 66612

Re: Public Health -- Healing Arts; Kansas Healing Arts  
Act -- Doctors of Chiropractic; "Chiropractic  
Physicians"

Synopsis: Under the Kansas statutes the term "physician"  
means a person licensed to practice medicine and  
surgery unless it is defined otherwise. See,  
e.g., K.S.A. 65-2869. In addition, when  
"physician" is used in conjunction with another  
word, the health care provider is deemed to be one  
licensed to practice medicine and surgery. See  
65-2870; 65-2897a. Chiropractors are specifically  
prohibited by statute from practicing medicine and  
surgery. K.S.A. 65-2871. Thus, the term  
"chiropractic physician" is misleading to the  
public as it implies that a chiropractor is  
licensed to practice beyond the scope of the  
statutory definition of chiropractic. Therefore,  
it is our opinion that doctors of chiropractic  
cannot use the term "chiropractic physician."  
Cited herein: K.S.A. 1986 Supp. 8-1001; 17-2707;  
K.S.A. 40-2101; 40-3103; 44-508; K.S.A. 1986  
Supp. 59-2902; K.S.A. 60-427; 65-1,114; 65-448;  
65-5a01; 65-6b01; 65-2401; 65-2801; 65-2802;  
65-2803; 65-2869; 65-2870; 65-2871; 65-2892;  
65-2892a; 65-2893; 65-28,102; 65-2897a; 65-2901;  
65-3209; K.S.A. 1986 Supp. 65-4003; K.S.A.  
65-4202; 65-4301; K.S.A. 1986 Supp. 65-5501;  
K.S.A. 72-5208; 74-4916; K.A.R. 28-34-1.

Dear Representative Sprague:

As State Representative for the Seventy-Third District, you request our opinion whether doctors of chiropractic licensed by the State of Kansas may call themselves "chiropractic physicians." It is our understanding that the Board of Healing Arts in October, 1986 reaffirmed its policy that it would not discipline a doctor of chiropractic for using the term "chiropractic physician."

All practitioners of the healing arts must be licensed by the State Board of Healing Arts (Board). K.S.A. 65-2801; K.S.A. 65-2803. "Healing arts" is defined by statute as follows:

"The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic." K.S.A. 65-2802(a).

Medicine and surgery, osteopathic medicine and surgery, and chiropractic are three branches of the healing arts. K.S.A. 65-2869 provides as follows:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

"(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation . . . .

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or

abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings." (Emphasis added).

"Physicians," then, are persons engaged in the practice of medicine and surgery. By statute, osteopaths are licensed to practice medicine and surgery:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

"(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

"(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act." K.S.A. 65-2870. (Emphasis added).

The practice of chiropractic is defined as follows:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who

apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics." K.S.A. 65-2871. (Emphasis added).

As emphasized in the above statute, chiropractors may not practice medicine or surgery. See Kansas State Board of Healing Arts v. Burwell, 5 Kan. App. 2d 357, rev. denied 228 Kan. 807 (1980) (Chiropractors may not prescribe or administer laetrile, as such constitutes the practice of medicine.)

The Kansas Chiropractic Association (KCA) has submitted material to us in support of their contention that chiropractors have the right to refer to themselves as "chiropractic physicians." It is argued that the term "physician" is not limited to a particular branch of the healing arts and that several Kansas statutes recognize a chiropractor as a physician. Another argument is that the word "physician" used in conjunction with the term "chiropractic" is not misleading to the public. The KCA also maintains that doctors of chiropractic are qualified as physicians.

Several Kansas statutes define the term "physician" to include chiropractors. For example, for purposes of the physician-patient privilege, a physician is "a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts . . . ." K.S.A. 60-427(a). Under the workmen's compensation act, the term physician means any "person licensed . . . to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry or podiatry." K.S.A. 44-508(i).

It has been contended that the term "physician" is a general term which applies to all branches of the healing arts unless specifically limited by statute. Examination of the Kansas statutes, however, shows that "physician" is a specific term unless applied in a general manner. It is reasonable to conclude that one would look to chapter 65 (Public Health) of the Kansas statutes to determine the meaning of "physician." In the following statutes the term physician is specifically defined to mean a person licensed to practice medicine and surgery: K.S.A. 65-5a01(c) (care of crippled and chronically

ill children); 65-2897a(b) (physician's assistants); 65-28,102(d) (Natural Death Act); 65-2901 (practice of physical therapy); 65-3209(g) (Uniform Anatomical Gift Act); K.S.A. 1986 Supp. 65-4003(17) (Alcoholism and Treatment Act); K.S.A. 65-4202(b) (practice of mental health technology); 65-4301 et seq. (Emergency Medical Services Act); 65-1,114(a) (concerning diabetes); 65-6b01(a) (prescribing and administering laetrile); K.S.A. 1986 Supp. 65-5502(e) (Respiratory Therapy Practice Act). Various statutes outside chapter 65 also limit the term physician to mean a person licensed to practice medicine and surgery. See K.S.A. 1986 Supp. 8-1001(c) (withdrawal of blood for chemical blood test); 17-2707(b) (professional corporations); 59-2902(j) (Treatment Act for Mentally Ill Persons); K.S.A. 72-5208(e) (school health tests and inoculations); K.A.R. 28-34-1(12) (hospital regulations).

The KCA argues that, to the extent statutes define physician so as to exclude chiropractors, the designation "chiropractic physician" would not bring chiropractors within these statutes. Hence, the scope of chiropractic is not enlarged and the public would not be misled. However, not all statutes concerning public health which use the word "physician" limit it to mean persons licensed to practice medicine and surgery. Chiropractors, then, are not specifically excluded. See K.S.A. 65-448 (examining victims of sex offenses); 65-2401 et seq. (vital statistics, duty of physician attending births and deaths); 65-2892 (examination and treatment of minors for venereal disease); 65-2892a (examination and treatment of minors for drug abuse); 65-2893 (performing autopsies). The content of these statutes makes it clear that "physician" can only mean persons licensed to practice medicine and surgery. Thus, the term physician has a specific meaning unless it is defined otherwise, such as in the worker's compensation statute (K.S.A. 44-508) and the patient-physician privilege rule of evidence (K.S.A. 60-427).

The KCA maintains that only when the word "physician" is used standing alone does it mean a person who practices medicine and surgery; therefore, chiropractors may be called chiropractic physicians. In the Kansas statutes "physician" is used in conjunction with another word in at least two instances: "physician's assistants" and "osteopathic physicians." There is an important distinction between these terms and "chiropractic physician." Physician's assistants may practice medicine and surgery under the direction and supervision of a physician licensed to practice medicine and

surgery. K.S.A. 65-2897a. Osteopaths are also licensed by statute to practice medicine and surgery. K.S.A. 65-2870. Chiropractors, however, may not practice medicine and surgery. K.S.A. 65-2871. Under the Kansas statutes, when the term "physician" is used in conjunction with another word, the health care provider is one licensed to practice medicine and surgery.

Kansas recognizes "the practice of chiropractic as one of the healing arts in certain special areas of examination and treatment related to the human body, including X-ray diagnosis." Taylor v. Maxwell, 197 Kan. 509, 511 (1966). K.S.A. 65-2871 provides that the practice of chiropractic includes examination, analysis, and diagnosis of the human living body. See K.S.A. 40-2101 (if included in an insurance policy, any service within the lawful scope of chiropractic must be reimbursed or indemnified); 40-3103(k) (chiropractic is a medical benefit under the Automobile Injury Reparations Act); 44-508(i) (chiropractic benefits are authorized for accidental injuries arising out of and in the course of employment); 74-4916 (a chiropractor may perform physical examinations to qualify public employees for disability compensation).

The KCA argues that doctors of chiropractic qualify as physicians because chiropractic is a healing art, they are authorized to perform examinations, and they must complete an extensive education in health care. There is no doubt that today's chiropractor is well-trained to practice his or her profession. However, the fact that a chiropractor can examine, diagnose, and treat within the scope of chiropractic does not qualify a chiropractor as a physician. Since the practice of medicine and surgery is beyond the scope of chiropractic, the term "chiropractic physician" is contradictory and misleading. It is inconsistent to say that when used alone the term "physician" means a person licensed to practice medicine and surgery, but that when used with another word means a person licensed to practice the healing arts.

The term "physician" is defined in Black's Law Dictionary 1033 (rev. 5th ed. 1979) as follows:


"A practitioner of medicine; a person duly authorized or licensed to treat diseases; one lawfully engaged in the practice of medicine."

A definition of "chiropractor" is found in 70 C.J.S. Physicians and Surgeons §1:

"One who practices the system of chiropractics. Chiropractors are not physicians, and ordinarily are not specialists regarding the diseases of the internal organs."

The common meaning of physician is medical doctor or surgeon. As used in the Kansas statutes, physician means a person licensed to practice medicine and surgery. The term "chiropractic physician," then, implies that a doctor of chiropractic is licensed to practice beyond the scope of the statutory definition of chiropractic. This is misleading to the public. For this and the other reasons stated in this opinion, we must conclude that doctors of chiropractic may not represent themselves as "chiropractic physicians."

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
Rita L. Noll  
Assistant Attorney General

RTS:JLM:RLN:bas