

Opinion No. 54-5972

June 10, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Morris Haas, D.S.C. Secretary-Treasurer New Mexico State Board of Chiropractic Examiners 1301 Central Avenue East Albuquerque, New Mexico

{*430} Receipt is acknowledged of your letter dated June 3, 1954, in which the New Mexico State Board of Chiropractic Examiners requests an opinion as to whether or not, under the Chiropractic Laws of the State of New Mexico, a definition of a chiropractor is to be interpreted to the effect that a chiropractor is a physician in a limited form of medical practice.

In other words, would a chiropractor be a physician within the meaning of the Uniform Narcotic Act, and that he may, in good faith, in the course of his professional chiropractic practice only, prescribe, administer and dispense narcotic drugs after compliance with all the requirements set forth in the Uniform Narcotic Act.

The question turns upon our interpretation of several statutes. The pertinent part of § 51-201, N.M.S.A., 1941 Comp., reads as follows:

"Practice of chiropractic -- Definition of. -- The diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of ailments of the human foot **excepting** amputation of the foot or toes or **the administration of an anesthetic other than local**. Explanation of the term defining chiropractic. (Emphasis ours)

"A. Diagnosis: Shall mean to ascertain a disease or ailment by its symptoms and local findings.

"B. Medical Treatment: Shall be held to mean the local application or recommendation of any therapeutic agent or remedy for the relief of foot ailments.

"C. Surgical Treatment: Shall be held to mean the use of any cutting instrument to treat a disease, ailment, or condition."

In interpreting the above statute, it is plain that the only authority that the Legislature gives the chiropractors is that they can administer local anesthetics. However, the language of the statute is negative and not affirmative. The statute does not include authority for chiropractors to sell, dispense or prescribe any form of narcotics.

Therefore, the well known maxim, *Expressio unius est exclusio alterius*, found in Volume 82 C.J.S. page 666, is applicable in the construction and interpretation of statutes, when the intention of the lawmaking body is not otherwise clear. Accordingly, where a statute enumerates the subjects or things on which it is to operate, or the

persons affected, or forbids certain things, it is to be construed as excluding from its effect all those not expressly mentioned.

If the Legislature had intended to give the chiropodists the authority to dispense, sell or prescribe narcotics, they must specifically say so.

Again, the Legislature in § 71-702, N.M.S.A., 1941 Comp., under the heading "Definitions", defines, under subsection (3), the word "Physician" as follows:

"Physician' means a person duly registered and authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment."

{*431} Subsection (1) of § 71-711, N.M.S.A., 1941 Comp., under the heading "Professional use of narcotic drugs", reads as follows:

"A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. Provided, however, that if said physician is required to use any of the drugs prohibited by this act in the care and treatment of any individual case for a period longer than three (3) months, he shall at the expiration of said period of three (3) months report the same to the state board of public welfare (state board of public health), together with the name of the patient and the nature of the disease with which said patient is afflicted."

Under subsection (2) of § 71-711, a veterinarian is also authorized, in his professional capacity, to prescribe, administer and dispense narcotic drugs to animals, with the exception of a horse which is to enter a race, and in that case narcotics shall not be administered to any horse within twelve hours prior to said race.

In view of the language and our interpretation of the above quoted statutes concerning chiropody laws and the Narcotic Drug Act, the definition of a chiropodist cannot be interpreted to the effect that a chiropodist is a physician in a limited form of medical practice, and under our interpretation of the chiropody laws and the Narcotic Drug Act, hereinabove quoted, the Legislature limits chiropodists only to the administration of local anesthetics, and not to the dispensing, prescribing or selling of same.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assist. Attorney General