

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

RICHARD S. COHEN
ATTORNEY GENERAL



80-83
STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

May 13, 1980

Members of the Board of Registration
in Medicine
100 College Avenue
Waterville, Maine 04901

Re: Holding oneself out as a "physician"

Gentlemen:

At its meeting on March 11, 1980, the Board of Registration in Medicine voted to request an opinion from the Attorney General's Office regarding whether a chiropractor may hold himself out as a physician. As more fully explained below, 1/ it is the opinion of this Office that a chiropractor may not do so.

Pursuant to 32 M.R.S.A. Chapter 48 (32 M.R.S.A. §3263 et seq.), the Legislature has designated the Maine Board of Registration in Medicine as the sole administrative agency with the authority to license a person to practice in this State as a "physician." 32 M.R.S.A. §3271 states in applicable part that

"Any graduate of a medical school in the United States or Canada designated as accredited by the Liaison Committee on Medical Education, or any foreign medical school graduate . . . [who meets certain qualifications] shall be entitled to examination, and if found qualified by a majority of the members of the board [of Registration in Medicine] . . . shall be registered as a physician or surgeon in the State

1/ More particularly, the Board phrased its opinion request in terms of a chiropractor calling himself a "licensed primary care physician." Since it is our opinion that a chiropractor may not call himself a "physician," it follows logically that he may not hold himself out as a "licensed primary care physician."

of Maine." (emphasis added)^{2/}

32 M.R.S.A. §3270 states in applicable part that

"Unless duly registered and licensed [as a physician or surgeon] by said board [of Medicine], no person shall practice medicine or surgery or any branch thereof, or hold himself out to practice medicine or surgery or any branch thereof within the State
[A]ny chiropractor duly licensed by this State may prefix the title 'Doctor' or the letters 'Dr.' to his name when accompanied by the word 'Chiropractor'

"The prefixing of the title 'Doctor' or the letters 'Dr.' or the appending of the letters 'M.D.' by any person to his name or the use of the title of doctor or physician in any way by any person not duly registered as described shall be prima facie evidence that said person is holding himself out to practice medicine or surgery contrary to this section" (emphasis added)

Furthermore, there is nothing in the chiropractic statute, 32 M.R.S.A. Chapter 9 (32 M.R.S.A. §451 et seq.) which expressly or impliedly permits a chiropractor to call himself a physician. To the contrary, 32 M.R.S.A. §451 states in part that ". . . . chiropractic is declared not to be the practice of medicine, surgery, dentistry or osteopathy," and 32 M.R.S.A. §453 states in relevant part that "[n]othing in this chapter [Chapter 9, Chiropractors] shall be construed to restrain or restrict any legally licensed physician, surgeon, dentist, osteopath or nurse in the practice of his or her profession" (emphasis added)

The Legislature has, thus, passed several related statutes which must be read together to determine whether a chiropractor may call himself a physician. See In Re Belgrade Shores, Inc., 359 A.2d 59 (Maine, 1976); Reggep v. Lunder Shoe Products Company, 241 A.2d 802 (Maine, 1968); Frost v. Lucey, 231 A.2d 441 (Maine, 1967). These statutes not only prohibit the practice of medicine or surgery by a chiropractor, but prohibit a chiropractor from holding himself out to practice medicine or surgery. Further, the statute declares that the mere use of the title "physician" in any way is prima facie evidence that a person (in this instance a chiropractor) is holding himself out to practice medicine or surgery in violation of statute. It is clear, therefore, that the Legislature intended that,

^{2/} To the same effect is 32 M.R.S.A. §3269(3), giving the Board of Medicine the power to license and register physicians and surgeons, and 32 M.R.S.A. §3272, stating that "[t]he board [of Medicine] shall examine all such applicants for registration as a licensed physician or surgeon." (emphasis added)

unless licensed by the Board of Medicine to practice medicine or surgery, a chiropractor may not hold himself out as a "physician."^{3/}

Courts in several states, after examining their statutes on health care, have held that chiropractors are not "physicians." See Beverungen v. Briele, 333 A.2d 664 (Court of Special Appeals of Maryland, 1975); Colorado Chiropractic Association v. State, 467 P.2d 795 (Supreme Court of Colorado, 1970); Corsten v. State Industrial Commission, 240 N.W. 834 (Supreme Court of Wisconsin, 1932). In Beverungen, *supra*, the Maryland Court of Appeals affirmed a lower court decision which permanently enjoined chiropractors from using the term "physician" by itself or in combination with any other words (for example, the designation "chiropractic physician"). We have no reason to believe, should this issue be presented to the courts in this State, that the Maine courts would reach a different conclusion.

Very truly yours,



DAVID ROSEMAN

Assistant Attorney General

DR:jg

^{3/} It should be noted that the statutes may not completely foreclose the possibility that a chiropractor could in some limited manner use the term "physician" in a way that makes clear he is not holding himself out to practice medicine or surgery. That possibility, however, would have to be addressed in the context of a specific factual situation.