

Opinion No. 54-5947

May 14, 1954

BY: RICHARD H. ROBINSON, Attorney General

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

{*400} Receipt is acknowledged of your letter dated April 28th 1954 in which you request an interpretation of the first sentence of Chapter 17, New Mexico Session Laws of 1939, which is Section 51-203, N.M.S.A., 1941 Compilation, which reads as follows:

"The applicant may, at the discretion of the board, be registered and given a license if he or she shall present satisfactory proof of endorsement from his or her state association as having practiced chiroprody and being in possession of a license to practice in his or her state issued at least one (1) year prior to filing of application for reciprocal privileges."

The first part of the wording of the above quoted sentence is clear that an applicant may be registered and given a license to practice chiroprody in the discretion of the board, if the board is presented with satisfactory proof of his or her state, of possession of a license and practice at least one year in such state prior to filing of application for reciprocal privileges.

"Satisfactory proof" is defined in Vol. 38 of Words and Phrases at page 270 as meaning, "if justice is satisfied." In other words, if the Board is satisfied with the justice of the proof presented by applicant.

Presenting proof of practice and a license to practice in his or her state, issued at least one year prior to filing of application for reciprocal privileges according to our interpretation, implies being in possession of a license to practice and practicing chiroprody in his or her state, not necessarily in any particular state, but in any state of the United States having reciprocity with New Mexico, at least one year prior to filing for reciprocal privileges.

If the Legislature had intended to limit the possession of a license to practice to one state in particular, or to the state in which he or she were practicing at the time, the Legislature would have pointed that out or specifically would have said so.

In the case of **State vs. Southern Pacific Company**, 34 N.M. at page 306, involving the construction of a statute, our Supreme Court in affirming judgment of the District Court, held that the intention of the Legislature in passing a statute is the primary and controlling consideration in determining its proper construction.

Also the language of a statute is doubtful or an adherence to the strict letter would lend to injustice, absurdity, or contradiction, the statute would be construed according to its spirit or reason, even though this necessitates the rejection of words and substitution of others. See also **In Re Vigil Estate**, 38 N.M. 389, 34 P. 2d 667; Section 4505 and Section 4704 of Vol. 2, **Sutherland Statutory Construction**.

{*401} According to testimony at a hearing before the Chiropody Board, the applicant testified that he only practiced three months in the State of Delaware and three years in the State of Florida.

In view of the above and foregoing definition and authorities, it is the opinion of this office that the first sentence of Section 3, Chapter 17, Laws of 1939, which is Section 51-203 of the New Mexico Statutes Annotated, 1941 Compilation, as quoted above should be interpreted to mean that it is discretionary with the Chiropody Board to give an applicant a license if he or she registers with the Board and presents satisfactory proof of endorsement from his state association that he or she has practiced chiropody for one year, and is in possession of a license to practice in any state of the Union having reciprocity with New Mexico at least one year prior to filing of application for reciprocal privileges.

In this case the proof of endorsement should come from the Florida State Board.

By: Hilario Rubio

Assist. Attorney General