

Opinion No. 59-96

August 12, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. H. Leslie Williams Assistant District Attorney Second Judicial District
Albuquerque, New Mexico

{*155} This is in reference to your recent request in which you asked our opinion on the following question:

Is a chiropractor qualified to issue the certificate relating to physical condition required by Section 12-3-4.3, N.M.S.A., 1953 Comp., (PS)?

In our opinion, the answer to the above question is no.

The 1959 Legislature adopted legislation relating to the immunization of children attending schools against contagious diseases. Among the sections of the adopted legislation is the one to which you related your question. This Section 12-3-4.3 reads in pertinent part as follows:

"Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws the certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; * * *".

You will note that the certificate may be issued only by a "licensed physician".

A chiropractor is not a "physician" and his profession or calling is not the practice of medicine. **Osborne v. Talbot**, 78 A. 2d 205 (Md.). He is one skilled in the art of healing in a limited manner, although not one skilled in physic since such latter term refers to the practice of medicine. **U.S. v. 22 Devices, more or less**, 98 Fed. Supp. 914.

Another factor which is significant to me is that in both Article VIII of Chapter 67 of New Mexico Statutes Annotated, 1953 Compilation, relating to osteopathy, and in Article V of that same chapter relating to medicine and surgery, the doctors referred to are interchangeably referred to as physicians. This is not true in Article III of Chapter 67 relating to chiropractics. At no place in the latter article is the term "physician" used. It may be inferred from this that the Legislature did not intend the title "physician" to be inclusive of chiropractors and this intent would carry into other legislation relating to the practice of medicine.

Therefore, in conclusion, it is our opinion that chiropractors do not qualify as physicians for the purposes intended by Section 12-3-4.3, New Mexico Statutes Annotated, 1953 Comp., (P.S.).

Thomas O. Olson

Assistant Attorney General