

Opinion No. 18-2124

August 29, 1918

BY: MILTON J. HELMICK, Assistant Attorney General

TO: Capt. J. M. Bannister, Camp Hospital, Columbus, N.M.

Army Doctor May Engage in Civilian Practice in Certain Cases Without State License.

OPINION

I am in receipt of your recent favor of the 26th inst., requesting information as to whether or not officers of the Medical Corps of the U.S. Army, who have not license to practice medicine in the State of New Mexico can practice for civilians, (a) within the military reservation to which they are assigned; (b) without the military reservation, and if so, under what conditions and restrictions.

You are advised that as a general proposition a doctor who is not licensed to practice medicine in this state cannot practice for civilians by reason of the fact that he is an officer of the Medical Corps of the United States Army.

Within the military reservation to which such officers are assigned they may practice at will irrespective of any or all state restrictions providing the military reservation is one over which congress has exclusive jurisdiction by reason of the state having ceded jurisdiction as provided in Section 8 of Article 1 of the Constitution of the United States. You will understand that in military reservations of this type the state has no jurisdiction whatsoever.

Outside such a military reservation a medical officer should not ordinarily practice for civilians without a license. However, we think this rule should be liberally construed. We realize that many sections of our state are almost destitute of doctors because of the great number that have entered military service, and we appreciate that in many instances civilians may require the attention of army doctors, particularly in cases of emergency. We therefore think that the prohibition above cited should not apply to isolated cases. We think that the prohibition should only apply to an officer who would attempt to engage in a regular civilian practice and hold himself out as a regular practicing civilian physician.

In our opinion the assistance of medical officers to civilians in many parts of this state is necessary and will be greatly appreciated by such communities. In our opinion there should be no disposition on the part of any one to interfere with such service, and we believe that any medical officer who understands the situation will not hesitate to render valuable service to civilians in necessary cases. So long as the medical officer does not attempt to maintain an office or to hold himself out as a general civilian practitioner, we

do not believe that he will violate the laws of the state by rendering assistance to civilians in necessary cases.