

## Opinion No. 39-3218

July 21, 1939

**BY:** FILIO M. SEDILLO, Attorney General

**TO:** Dr. John W. Myers, Superintendent, N.M. State Hospital, Las Vegas, New Mexico.

{\*86} In your letter of July 17, 1939, you ask for an opinion from this office as to whether or not an osteopath is to be considered a physician within the meaning of Section 1, Chapter 76 of the Laws of 1933, which is as follows:

"The District Judge in any County may grant certificates showing that the persons named therein are reputable physicians and licensed to practice in the State of New Mexico, and have been in active practice of their profession at least five years, and when certified copies of such certificates have {\*87} been filed with the Medical Superintendent of the New Mexico Insane Asylum, the latter shall issue to such persons certificates or commissions, and the persons therein named become known as "Medical Examiners," and there must at all times be at least two (2) such medical examiners in each county of the state; Provided, however, that in any county of the state, where there is only one medical practitioner qualified to act as medical examiner he may be so qualified."

Bouvier's and Cyclopedic Law Dictionaries define physicians as follows:

"A person who has received the degree of doctor of medicine from an incorporated institution; one lawfully engaged in the practice of medicine."

In *Raynor vs. The State*, 62 Wisc. 289, the court held that the terms physicians and surgeons are not limited to any one school of practitioners recognized by law.

Under Section 110-108, 1929 Compilation, in defining the practice of medicine it is provided that nothing in the Act shall be construed as to interfere with the practice of osteopathy as provided for by law.

Section 99-101 of the New Mexico Supplement, 1938, defines osteopathy, or osteopathic medicine as used in the Act as the name of that system or school of medicine which is taught and practiced in the standard colleges of osteopathy and surgery as therein set forth.

Under Section 99-112, New Mexico Supplement, 1938, osteopathic physicians and surgeons licensed thereunder shall have the same general rights as physicians and surgeons of other schools of medicine with respect to handling of cases.

Osteopathic physicians are limited to the practice of osteopathy in harmony with the fundamental principles of osteopathy as generally taught in standard colleges of

osteopathy and surgery. I am of the opinion that under our statutes an osteopath may be granted certificates by District Judges since one of the requirements before a person can be given a license to practice as an osteopathic physician in the state is that he has to have a degree of doctor of osteopathy from a standard college of osteopathy and surgery, which requires and includes the subject of psychiatry among its requirements.