

## Opinion No. 42-4114

July 9, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Dr. James R. Scott, Director Department of Public Health Santa Fe, New Mexico

{\*215} This acknowledges receipt of your letter of July 3, 1942, wherein you request a ruling from this office on whether a person working for a doctor in his office, but having no diploma or experience in nursing has the right to give hypodermic shots or other treatments to patients, when the doctor is not in to supervise the shots and treatments.

The only statute which I have been able to find directly pertaining to this matter is Chapter 145, Laws of 1935, known as the Narcotic Drug Act.

By the above act the Department of Public Welfare is authorized and empowered to make such rules and regulations as it may deem proper to enforce the act.

By Section 2 of Chapter 145, Laws of 1935, as amended by Section 2, Chapter 70, Laws of 1937, as amended by Section 2, Chapter 96, Laws of 1939, as amended by Section 1, Chapter 57, Laws of 1941, narcotic drugs are defined to mean:

"\* \* \* coca leaves, opium, **and cannabis**, and every substance neither chemically nor physically distinguishable from them."

Said Section 2 above also defines coca leaves, opium and cannabis as follows:

"(12) 'Coca leaves' includes cocaine, and any compound, manufacture, salt derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

"(13) 'Opium' includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

"(14) 'Cannabis' includes all parts of the plant cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake."

Section 2 above defines a physician as:

"Physician, means a person duly registered and authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human being in this State and to use narcotic drugs in connection with such treatment."

Sub-section 1, Section 11 of Chapter 145, Laws of 1935, provides in part:

"A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision."

From the foregoing sections of the law, it appears that no narcotic drug can be administered except by a physician or dentist, or by a nurse or interne under the direction of the physician or dentist. It should be noted, however, that what has just been said about administering narcotic drugs does not apply to the exceptions made by Section 6, Chapter 145, {216} Laws of 1935 set out above, nor does it apply to the administering of any hypodermic shot in which substances other than narcotic drugs are used.

Insofar as the other treatments mentioned in the letter are concerned, the answer would depend upon the type of treatment.

Trusting that the foregoing sufficiently answers your inquiry, I am,

By WILLIAM R. FEDERICI,

Asst. Atty. General