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STATE OF NEBRASKA
OFFICE
JUN 18 1991
DEPT. OF JUSTICE

DATE: June 17, 1991

SUBJECT: Scope of Practice of Chiropractors

REQUESTED BY: Gregg F. Wright, M.D., M.Ed.
Director of Health

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You have asked whether the scope of practice of a chiropractor licensed by the Department to practice chiropractic in this state includes:

1. Performing internal pelvic examinations to determine whether the patient should be referred for treatment elsewhere;

2. Performing electrocardiograms (EKGs) to determine whether a patient's cardiac status is the cause of the reported symptoms or whether chiropractic treatment can be safely performed; or

3. Performing rectal examinations other than one performed prior to performing colonic irrigation.

We have concluded the answer to each of your questions is yes, as discussed below.

Chiropractic practice is defined by statute as follows:

For purposes of the Uniform Licensing Law, the practice of chiropractic is defined as being one or a combination of the following, without the use of drugs or surgery:

L. Jay Bartel
J. Kirk Brown
Laurie Smith Camp
Elaine A. Chapman
Delores N. Coe-Barbee
Dale A. Comer
David Edward Cygan
Mark L. Ells
James A. Elworth
Lynne R. Fritz
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson
Kimberly A. Klein
Donald A. Kohtz
Sharon M. Lindgren
Charles E. Lowe
Lisa D. Martin-Price
Lynn A. Melson
Harold I. Mosher
Fredrick F. Neid
Paul N. Potadle
Marie C. Pawol
Kenneth W. Payne
LeRoy W. Sievers
James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugal
Barry Waid
Terri M. Weeks
Alfonza Whitaker
Melanie J. Whittamore-Mantzios
Linda L. Willard

> (1) The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or (2) the science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation. The use of X-rays beyond the axial skeleton shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.

Neb.Rev.Stat. §71-177 (Reissue 1990). Thus, under the clear language of the statute, the practice of chiropractic includes "the diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis. . . ."

Under Nebraska law, where the words of a statute are plain and unambiguous, no interpretation is needed to ascertain their meaning. In the absence of anything to indicate the contrary, words will be given their ordinary meaning. Kellogg Co. v. Herrington, 216 Neb. 138, 343 N.W.2d 326 (1984). We fail to see how the above quoted statutory language could be susceptible of more than one reasonable but conflicting interpretation or meaning with regard to the diagnostic procedures in question. See Wurst v. Blue River Bank, 235 Neb. 197, 454 N.W.2d 665 (1990). It is our opinion a court would find as a matter of law the words in question are not ambiguous. Thus, no interpretation or resort to legislative history for the purpose of discovering legislative intent is necessary. In any event, we find the legislative history of §71-177 to be inconclusive on this point, especially in light of the broad language adopted by the legislature.

Thus, the performance of internal pelvic exams, electrocardiograms and rectal examinations by chiropractors is within the scope of chiropractic practice to the extent such procedures are part of a "physical and clinical examination [or] routine procedure" which is conducted for the "diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders and disease."

We would note the clear distinction in the statute between the scope of permissible "diagnosis and analysis", as outlined above, and the permissible method of treatment authorized by §71-177(2). We also note the statutory definition of chiropractic practice contained in §71-177(1) is much broader than the historic definition. See e.g., Malory's Medical Dictionary for Lawyers, Second Edition. Two prior informal opinions, dated November 22, 1983 and August 30, 1984 respectively, were issued subsequent to the amendment of §71-177 in 1983. Nonetheless, they were based upon historical concepts of chiropractic practice which have been superceded by the enactment of §71-177(1) by the Nebraska legislature. To the extent these opinions are inconsistent with the clear language of §71-177 or this opinion they are no longer valid. The proper statutory definition of chiropractic practice is for the legislature to determine and our opinion is based solely on the clear language adopted by the legislature.

Sincerely yours,

DON STENBERG
Attorney General

Steve Grasz
Steve Grasz
Deputy Attorney General

Approved By:

Attorney General

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