

Note from the Attorney General's Office:

1975 Op. Att'y Gen. No. 75-053 was modified by
1980 Op. Att'y Gen. No. 80-079.

OPINION NO. 75-053

Syllabus:

1. Any practitioner of a limited branch of medicine whose license under R.C. 4731.15 through R.C. 4731.21 is broad enough to permit the use of physical therapy as defined in R.C. 4731.62 through R.C. 4731.74 may use the words physical therapy or offer physical therapy as a treatment service.

2. Only persons who are licensed physical therapists pursuant to R.C. 4731.62 through R.C. 4731.74 may advertise themselves as physical therapists.

To: William J. Lee, Administrator, State Medical Board, Columbus, Ohio
By: William J. Brown, Attorney General, August 5, 1975

I have before me your request for my opinion as to the proper construction of R.C. 4731.73. Your questions read as follows:

"[W]hether a licensed mechanotherapist, chiropractor or other limited practitioner may offer or advertise physical therapy as a treatment service. Further, whether such practitioners may list or advertise themselves as physical therapists."

The Supreme Court has frequently pointed out that the limitation of the general practice of medicine to duly qualified physicians and surgeons, under R.C. Chapter 4731, is a proper exercise of the police power of the state. In State, ex rel. Copeland v. Medical Board, 107 Ohio St. 20, 27-28 (1923), the Court said:

"[T]he state medical board has a most important function imposed upon it, that of safeguarding the public against the ministrations of those who are not qualified by proper training, education and experience to minister to the wants of those who are afflicted by functional or organic diseases or are unfortunate victims of accident. Acting under a very proper exercise of police power the general assembly has placed upon the state medical board the duty of thus safeguarding the public interest. . . . If the state board is

permitted to satisfy itself as to the actual experience of the applicant, the license not only becomes a recommendation to the licensee, but also serves as a protection to the public, who have no means of making intelligent inquiry."

See also Krause v. Cleveland, 163 Ohio St. 559 (1955); Williams v. Scudder, 102 Ohio St. 305 (1921); State v. Marble, 72 Ohio St. 21 (1905); France v. State, 57 Ohio St. 1 (1897); 1972 Op. Att'y Gen. No. 72-116.

Furthermore, R.C. 4731.15 through 4731.21 provide for the examination and registration of practitioners of certain limited branches of medicine or surgery. R.C. 4731.15 reads, in part, as follows:

The state medical board shall also examine and register persons desiring to practice any limited branch of medicine or surgery, and shall establish rules and regulations governing such limited practice. Such limited branches of medicine or surgery shall include chiropractic, naprapathy, spondylotherapy, mechanotherapy, neuropathy, electrotherapy, hydrotherapy, suggestive therapy, psychotherapy, magnetic healing, Swedish movements, massage, cosmetic therapy. . . .

The Supreme Court has ruled that there is a clear distinction between the license of a physician or surgeon and the license of a limited practitioner. State v. Perrigo, 37 Ohio St. 2d 125, 127-128 (1974). See also 1972 Op. Att'y Gen. No. 72-101.

The specific practice of physical therapy, governed by R.C. 4731.62 through 4731.74, is, however, not included among the limited branches of medicine enumerated in R.C. Chapter 4731. On the contrary, one who is licensed as a physical therapist can engage in such practice only under the direction of a physician or a surgeon. A physical therapist is defined in R.C. 4731.62 as:

"[A] person who practices physical therapy as defined in this section upon the prescription and under the direction of a person licensed and registered in this state to practice medicine and surgery, or podiatry, and whose license is in good standing." (Emphasis added.)

And under R.C. 4731.70(A) one of the grounds for revocation of a physical therapist's license is:

"Applying or offering to apply physical therapy independent of the prescription and direction of a person licensed in this state to practice medicine and surgery;"

The General Assembly has understood that the licenses of some limited practitioners would be broad enough to include the practice of physical therapy as defined in R.C. 4731.62 through R.C. 4731.74, and the Assembly clearly did not intend that those sections should restrict the authority granted to limited practitioners under R.C. 4731.15 to 4731.21. Subsections (C) and (E) of R.C. 4731.73 read as follows:

(D) Nothing in sections 4731.62 to 4731.74, inclusive, of the Revised Code, shall prohibit any person duly licensed or registered in the state under any section of the Revised Code from engaging in the practice for which he is duly registered or licensed.

(E) Nothing in sections 4731.62 to 4731.74, inclusive, of the Revised Code, shall repeal, by implication or otherwise, existing sections 4731.15 to 4731.21, inclusive, of the Revised Code, relating to limited branches of medicine or surgery nor limit the practice, nor the future licensing of the practice of the limited branches of medicine or surgery therein mentioned in accordance with the rules and regulations of the state medical board, nor limit the use of the words 'physical therapy' by any limited practitioner whose license permits the use of physical therapy as defined in sections 4731.62 to 4731.74, inclusive, of the Revised Code.

Thus, it is clear that any practitioner of a limited branch of medicine whose license under R.C. 4731.15 through R.C. 4731.21 is broad enough to permit the use of physical therapy, as defined in R.C. 4731.62 through R.C. 4731.74, may use the words 'physical therapy' or offer physical therapy as a treatment service.

You next inquire whether such limited practitioner may list or advertise himself as a physical therapist. It should be noted that R.C. 4731.73(F), *supra*, provides that limited practitioners whose licenses permit the use of physical therapy may use the words 'physical therapy.' However, this section is silent as to whether such limited practitioner may advertise himself as a physical therapist. It is clear that the legislature has recognized the distinction between the words 'physical therapy' and 'physical therapist.' This is evidenced in R.C. 4731.73(F), which reads as follows:

(B) No person shall use the words or letters physical therapist, physical therapy, physiotherapist, physical therapy technician, P.T., Ph. T., P.T.T., or R.P.T., or any other letters, words, abbreviations, or insignia, indicating or implying that he is a physical therapist without a valid existing certificate of licensure as a physical therapist issued to him pursuant to the provisions of sections 4731.62 to 4731.72, inclusive, of the Revised Code.

Thus, the terms are not synonymous, and it can not be implied that merely because a limited practitioner may provide 'physical therapy' he may also advertise himself as a 'physical therapist.'

R.C. 4731.63, R.C. 4731.64, and R.C. 4731.65 set forth the requirements that an applicant must meet and the examination subjects which he must pass before he is licensed as a 'physical therapist.' Thus, no person may advertise himself as a 'physical therapist' unless he has complied with the provisions of R.C. 4731.63, R.C. 4731.64, and R.C. 4731.65, and been issued a license pursuant to R.C. 4731.66.

Current Rules and Regulations of the State Medical Board have quite different educational requirements for application to become a limited practitioner when compared with the educational

requirements to become a licensed physical therapist. The current rules provide that each applicant for a license to practice physical therapy have a preliminary education of one year in an approved College of Arts and Sciences, or its educational equivalent, or three years nurses' training. Further, each applicant must present a degree from a school of physical therapy approved by the state medical board. See R.C. 4731.63(C). However, the educational requirements for application to become a limited practitioner vary from completion of the eighth grade (with some subsequent course requirements) to graduation from a first grade high school (with some subsequent course requirements). For a more detailed explanation of the requirements for applicants to limited practice, see Rule MD-1-04 of the current Rules and Regulations of the State Medical Board.

Thus, it is clear that a limited practitioner and the licensed physical therapist are two entirely separate types of medical practitioners, with varying requirements for licensing. Therefore, I conclude that limited practitioners may not list or advertise themselves as a physical therapist regardless of whether they may perform physical therapy. Only persons holding a license as issued pursuant to R.C. 4731.62 to R.C. 4731.74, inclusive, may list or advertise themselves as a physical therapist.

In specific answer to your request it is my opinion, and you are so advised that:

1. Any practitioner of a limited branch of medicine whose license under R.C. 4731.15 through R.C. 4731.21 is broad enough to permit the use of physical therapy as defined in R.C. 4731.62 through R.C. 4731.74 may use the words 'physical therapy' or offer physical therapy as a treatment service.

2. Only persons who are licensed physical therapists pursuant to R.C. 4731.62 through R.C. 4731.74 may advertise themselves as physical therapists.