

**OPINION NO. 87-076****Syllabus:**

1. Persons licensed under R.C. Chapter 4734 to practice chiropractic in Ohio may perform such physical therapy services as are included within the practice of chiropractic and do not exceed the scope of each such person's education, training, and experience, and may designate such services as physical therapy services. (1980 Op. Att'y Gen. No. 80-079 followed in part and overruled in part.)
2. Licensed chiropractors may bill for such physical therapy services as they lawfully perform. (1980 Op. Att'y Gen. No. 80-079 overruled in part.)
3. Licensed chiropractors may advertise such physical therapy services as they may lawfully perform, but they may not use professional titles or abbreviations listed in R.C. 4755.48(C) and may not state or imply that they are physical therapists or physical therapist assistants. (1980 Op. Att'y Gen. No. 80-079 followed in part and overruled in part.)

**To: Peter D. Ferguson, D.C., President, Ohio Board of Chiropractic Examiners,  
Columbus, Ohio**

**By: Anthony J. Celebrezze, Jr., Attorney General, October 15, 1987**

I have before me your request for my opinion concerning the following questions:

1. May persons licensed under R.C. Chapter 4734 to practice chiropractic in Ohio perform physical therapy services and designate the services as such?
2. If the answer to the first question is in the affirmative, may licensed chiropractors bill for such services?
3. Are licensed chiropractors permitted to advertise that they provide physical therapy services?

As you have observed, two prior Attorney General opinions considered these questions and, based upon the varying statutory provisions then in effect, reached conclusions that differed in certain respects. See 1980 Op. Att'y Gen. No. 80-079; 1975 Op. Att'y Gen. No. 75-053 (modified in part and followed in part by Op. No. 80-079). You have asked that the questions be reconsidered at this time in light of subsequent statutory changes.

Your first question is whether persons licensed under R.C. Chapter 4734 to practice chiropractic in this state may perform physical therapy services and designate the services as such. Your question arises in connection with R.C. 4755.40-.50, which provide for the licensing of physical therapists and physical therapist assistants. R.C. 4755.40(A) defines physical therapy as follows:

"Physical therapy" means the evaluation and treatment of a person by physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating any disability. Physical therapy includes the establishment and modification of physical therapy programs, treatment planning, instruction, and consultative services. Physical measures include massage, heat, cold, air, light, water, electricity, sound, and the performance of tests of neuromuscular function as an aid to such treatment. Physical therapy does not include the diagnosis of a patient's disability, the use of roentgen rays or radium for diagnostic or therapeutic purposes, or the use of electricity for cauterization or other surgical purposes. Physical therapy includes physiotherapy.

R.C. 4755.48(B) restricts the practice of physical therapy, as follows:

No person shall practice or in any way hold himself out as being able to practice physical therapy, including practice as a physical therapist assistant, unless he holds a valid license under sections 4755.40 to 4755.50 of the Revised Code or except as provided in section 4755.50 of the Revised Code.

R.C. 4755.50 states: "Nothing in this chapter shall be construed to prevent or restrict the practice of any person who is a licensed practitioner in the state of Ohio, or of anyone employed or supervised by such person."

R.C. 4755.50 thus permits a licensed practitioner to carry out his practice without being restricted by prohibitions against performing physical therapy services. R.C. 4755.50 does not specify the types of practitioners to which it applies and, thus, appears to encompass all persons licensed as practitioners within Ohio who might have any cause to perform services in the nature of physical therapy, including chiropractors. Cf. Fort Hamilton-Hughes Memorial Hospital Center v. Southard, 12 Ohio St. 3d 263, 466 N.E.2d 903 (1984) (finding that where the General Assembly specifically enumerated four groups of licensed health care practitioners, it intended to exclude the other groups of licensed health care practitioners). R.C. 4755.50 does not empower any practitioners to perform physical therapy services, but merely provides that such authority as may exist is not restricted by the provisions of R.C. Chapter 4755. Thus, under R.C. 4755.48(B) and R.C. 4755.50, a licensed chiropractor may perform such physical therapy services as he is authorized by law to perform.

R.C. 4734.09 defines the scope of the practice of chiropractic, as follows:

The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. For the purpose of this chapter "practice of chiropractic" or "practice as a chiropractor" means utilization of the relationship between the musculo-skeletal structures of the body, the spinal column and the nervous system, in the restoration and maintenance of health, in connection with which patient care is conducted with due regard for first aid, hygienic, nutritional, and rehabilitative procedures and the specific vertebral adjustment and manipulation of the articulations and adjacent tissues of the body. The chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients.

The practice of chiropractic does not permit the chiropractor to treat infectious, contagious, or venereal disease, to perform surgery or acupuncture, or to prescribe or administer drugs for treatment, and roentgen rays shall be used only for diagnostic purposes. The practice of chiropractic does not include the performance of abortions. (Emphasis added.)

Rules governing the practice of chiropractic indicate that a chiropractor is to be trained, inter alia, in rehabilitative procedures. See, e.g., [1986-1987 Monthly Record, vol. 2] Ohio Admin. Code 4734-1-06(B)(12)(a) at 1392 (in order to be approved by the Chiropractic Examining Board, a chiropractic college must include in its curriculum "rehabilitative procedures including physiological therapeutic and/or ancillary therapeutics"); [1986-1987 Monthly Record, vol. 2] Ohio Admin. Code 4734-1-06(B)(12)(b) and (14) at 1392-93 (a graduate of a chiropractic college must complete a minimum of one hundred twenty academic hours in rehabilitative procedures, including physiological therapeutics and/or ancillary therapeutics and must have practical clinical training in rehabilitative procedures, including a minimum of twenty-five physiological therapeutic treatments); [1986-1987 Monthly Record, vol. 2] Ohio Admin. Code 4734-1-09 at 1395 (examination for licensure as a chiropractor includes testing on rehabilitative procedures). It thus appears that a chiropractor is authorized to perform certain procedures that are in the nature of physical therapy. See Op. No. 80-079 at 2-314 (chiropractors "may, in the course of their practice, perform activities which could be said to fall within the definition of physical therapy"); Op. No. 75-053 at 2-208 ("[t]he General Assembly has understood that the licenses of some limited practitioners would be broad enough to include the practice of physical therapy..."). See generally 1985 Op. Att'y Gen. No. 85-020 at 2-80 ("[a] person who treats a client or patient by the use of therapeutic exercise for the purpose of preventing, correcting, or alleviating a disability is practicing physical therapy...regardless of whether the service is characterized as therapeutic exercise, rehabilitation medicine, physical medicine, or as some other service"). 7 Ohio Admin. Code 4734-1-15(A) does, however, state clearly that, "[i]n the conduct of the practice of chiropractic no chiropractor shall perform any service that is beyond the scope of his education, training, and experience." See generally 1983 Op. Att'y Gen. No. 83-002. I conclude, therefore, that a person licensed under R.C. Chapter 4734 to practice chiropractic in Ohio may perform such physical therapy services as are included within the practice of chiropractic and do not exceed the scope of his education, training, and experience.

You have asked also whether services performed by a chiropractor may be designated as physical therapy services. Op. No. 80-079 concluded that they could not, based upon language in R.C. 4755.50 stating that "services rendered by such person [any person who is a licensed practitioner in the state of Ohio] or by anyone employed or supervised by such person, shall not be designated as physical therapy." That language was deleted by Am. Sub. H.B. 460, 116th Gen. A. (1985) (eff. July 1, 1985). The Legislative Service Commission's summary of Am. Sub. H.B. 460 states that the act "permits a person practicing physical therapy who is a licensed practitioner of some other occupation or profession to designate his services as physical therapy" and expressly notes: "Under prior law, a person practicing physical therapy as a licensed practitioner of some other occupation or profession...could not designate his services as physical therapy. The act removes the prohibition." Ohio Legislative Service Commission, Summary of Enactments 140, 141 (Jan. - July 1985). See generally Meeks v. Papadopoulos, 62 Ohio St. 2d 187, 191, 404 N.E.2d 159, 162 (1980) (Legislative Service Commission analyses are not determinative of legislative intent but may be useful references). In light of the enactment of Am. Sub. H.B. 460, it must be concluded that R.C. 4755.50 no longer restricts a licensed practitioner from designating his services as physical therapy services, and Op. No. 80-079 is overruled on that point. This conclusion is essentially the same as the conclusion that was reached in Op. No. 75-053, under provisions then appearing in R.C. Chapter 4731. Accordingly, my response to your first question is that persons licensed under R.C. Chapter 4734 to practice chiropractic in Ohio may perform such physical therapy services as are included within the practice of chiropractic and do not exceed the scope of each such person's education, training, and experience, and may designate such services as physical therapy services.

Your second question is whether licensed chiropractors may bill for such physical therapy services as they lawfully perform. This question was apparently prompted by the fact that Op. No. 80-079 concluded that a licensed chiropractor could not bill for physical therapy services. That conclusion was based upon the analysis that the submission of a bill for physical therapy services constituted a designation of the services as physical therapy services, in violation of R.C. 4755.50 as it was then in effect. Since the designation of services by a licensed chiropractor as physical therapy services is no longer prohibited, this rationale for prohibiting a chiropractor from billing for physical therapy services is no longer applicable. I am aware of no existing statute or administrative rule that prohibits a chiropractor from billing for physical therapy services. R.C. 4755.50, which makes clear that nothing in Chapter 4755 prevents or restricts the practice of a licensed practitioner in the performance of services for which he is licensed, suggests instead that a chiropractor should be permitted to bill for physical therapy services performed within the scope of his license. To the extent that 1980 Op. Att'y Gen. No. 80-079 is in conflict with this conclusion, it is overruled. Accordingly, in answer to your second question, I conclude that licensed chiropractors may bill for such physical therapy services as they lawfully perform.

Your third question is whether licensed chiropractors may advertise that they provide physical therapy services. R.C. 4755.48(C) states:

No person shall use the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., physical therapy assistant, physical therapist assistant, physical therapy technician, licensed physical therapist assistant, L.P.T.A., R.P.T.A., or any other letters, words, abbreviations, or insignia, indicating or implying that he is a physical therapist or physical therapist assistant without a valid license under sections 4755.40 to 4755.50 of the Revised Code.

R.C. 4755.48(C) thus prohibits the use of the words "physical therapy," or related terms, to indicate or imply that a person is a physical therapist or physical therapist assistant if he is not so licensed under R.C. 4755.40-.50. As discussed above, however, R.C. 4755.50 protects the right of practitioners other than physical therapists and physical therapist assistants to carry out their practices and permits them to designate their services as physical therapy services. Reading these two provisions in harmony, see generally State ex rel. Pratt v. Weygandt, 164 Ohio St. 463, 132 N.E.2d 191 (1956), I conclude that licensed chiropractors may advertise that they perform physical therapy services, provided that they do not include any professional titles or abbreviations listed in R.C. 4755.48(C) and provided that they do not state or imply that they are physical therapists or physical therapist assistants. This conclusion is consistent with the language of R.C. 4755.48(B) that prohibits a person from practicing or holding himself out as being able to practice physical therapy, including practice as a physical therapist assistant, unless he is licensed under R.C. 4755.40-.50 "or except as provided in" R.C. 4755.50.

Op. No. 80-079 concluded that licensed chiropractors could not advertise that they provided physical therapy services because they were prohibited from designating their services as physical therapy services. Since the prohibition against designation no longer exists, the objection to advertising is no longer valid on that ground. R.C. 4755.48(C) does, however, continue to prohibit the use of the words "physical therapy," or related terms, in a context that indicates or implies that a person who is not so licensed is a physical therapist or physical therapist assistant. See Op. No. 80-079. Op. No. 80-079 is, accordingly, followed in part and overruled in part.

Op. No. 75-053 considered statutory language stating that the provisions regulating physical therapy did not "limit the use of the words 'physical therapy' by any limited practitioner whose license permits the use of physical therapy" and concluded that chiropractors could use the words "physical therapy" and offer physical therapy as a treatment service, but that they could not advertise themselves as physical therapists. Op. No. 75-053 considered a provision that was analogous to the prohibition currently appearing in R.C. 4755.48(C) and concluded that, although a limited practitioner could provide physical therapy services, he could not advertise himself as a physical therapist. The current statutory scheme supports a similar conclusion.

It is, therefore, my opinion, and you are hereby advised, as follows:

1. Persons licensed under R.C. Chapter 4734 to

practice chiropractic in Ohio may perform such physical therapy services as are included within the practice of chiropractic and do not exceed the scope of each such person's education, training, and experience, and may designate such services as physical therapy services. (1980 Op. Att'y Gen. No. 80-079 followed in part and overruled in part.)

2. Licensed chiropractors may bill for such physical therapy services as they lawfully perform. (1980 Op. Att'y Gen. No. 80-079 overruled in part.)
3. Licensed chiropractors may advertise such physical therapy services as they may lawfully perform, but they may not use professional titles or abbreviations listed in R.C. 4755.48(C) and may not state or imply that they are physical therapists or physical therapist assistants. (1980 Op. Att'y Gen. No. 80-079 followed in part and overruled in part.)