

**Note from the Attorney General's Office:**

1980 Op. Att'y Gen. No. 80-079 was overruled in part by  
1987 Op. Att'y Gen. No. 87-076.

**OPINION NO. 80-079**

**Syllabus:**

1. Under the terms of R.C. 4755.50, a licensed physician, surgeon, podiatrist, nurse, dentist, occupational therapist, chiropractor, mechanotherapist or a licensed practitioner of another limited branch of medicine may lawfully render and bill for any service within the purview of his or her license, notwithstanding that such service may also fall within the definition of "physical therapy" set forth in R.C. 4755.40, provided that such service is not designated as physical therapy. (1975 Op. Att'y Gen. No. 75-053 modified.)

2. Such licensed practitioners may not offer, advertise or bill for physical therapy services.
3. Only persons who are licensed pursuant to R.C. 4755.40 through 4755.50 may advertise or hold themselves out as physical therapists. (1975 Op. Att'y Gen. No. 75-053 followed.)

**To: Frank M. Pierson, L.P.T., Chairman, Ohio Occupational Therapy and Physical Therapy Board, Columbus, Ohio**

**By: William J. Brown, Attorney General, November 26, 1980**

I have before me your request for my opinion, which poses the following questions:

1. Whether a licensed mechanotherapist, chiropractor, limited practitioner of medicine, podiatrist, physician, surgeon, nurse, occupational therapist, or dentist may offer or advertise physical therapy as a treatment service offered by that person or by an agency of that person.
2. Whether the same practitioners listed in item 1 may list, advertise, or in any way indicate they are physical therapists.
3. Whether the same practitioners listed in item 1 may bill a patient, agency, insurance company, corporation or group; or other similar entities for physical therapy services.
4. Whether the same practitioners listed in item 1 may perform and subsequently bill the patient for the physical therapy activities, techniques, and functions described in Section 4755.40 paragraph (A), of the Ohio Revised Code.

As you have observed, in 1975 Op. Att'y Gen. No. 75-053, I concluded that "[a]ny practitioner of a limited branch of medicine whose license under R.C. 4731.15 through 4731.21 is broad enough to permit the use of physical therapy as defined in R.C. 4731.62 through 4731.74 may use the words 'physical therapy' or offer physical therapy as a treatment service." In that opinion, however, I concluded that only persons licensed as physical therapists pursuant to R.C. 4731.62 through 4731.74 may advertise themselves as physical therapists. My conclusions in 1975 Op. Att'y Gen. No. 75-053 were premised in large part upon the provisions of R.C. 4731.73 then in effect. Divisions (D) and (E) of R.C. 4731.73 at that time provided:

(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 other 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. (Emphasis added.)

In the years since 1975, however, there have been significant legislative changes which require further analysis of the issues you present. Am. Sub. H.B. 209, 112th Gen. A. (1977) (eff. Nov. 21, 1977), transferred regulation of physical therapy from the State Medical Board to the Ohio Occupational Therapy and

Physical Therapy Board. Significantly, one of the stated purposes of that bill was "to make revisions in the Physical Therapy regulatory program."

Under the current terms of R.C. 4755.50, as enacted by Am. Sub. H.B. 209:

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. However, services rendered by such person or by anyone employed or supervised by such person, shall not be designated as physical therapy.

All of the practitioners listed in your first question are subject to licensure requirements under various provisions of the Revised Code. The provisions of R.C. 4731.01 through 4731.60 govern the practice of medicine, surgery, podiatry and midwifery, as well as the branches thereof. R.C. 4731.15 lists the limited branches of medicine, which include mechanotherapy. R.C. 4731.34 defines the practice of medicine, surgery, podiatry and midwifery and the branches thereof. R.C. 4731.51 further defines activities comprising the practice of podiatry. The practice of chiropractic was, at the time Op. No. 75-053 was issued, included among the limited branches of medicine under the terms of R.C. 4731.15. Chiropractic is now regulated under the terms of R.C. Chapter 4735; the definition of the practice of chiropractic is set forth in R.C. 4734.09. The practice of nursing is regulated under the terms of R.C. Chapter 4723; the practice thereof is defined by R.C. 4723.06. The practice of dentistry is defined by R.C. 4715.01; regulation of such practice is subject to the provisions of R.C. Chapter 4715. The practice of occupational therapy is regulated by the Occupational Therapy Section of the Ohio Occupational Therapy and Physical Therapy Board; R.C. 4755.01 defines the practice of occupational therapy.

My review of the foregoing statutory provisions leads me to conclude that all of the practitioners listed in your first question may, in the course of their practice, perform activities which could be said to fall within the definition of physical therapy set forth in R.C. 4755.40(A), which reads:

"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 functions 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 physio-therapy.

However, as the result of R.C. 4755.50, I am of the opinion, in response to your fourth question, that the practitioners listed in your first question are not prevented from rendering and billing for such services, so long as these services are not designated as physical therapy.

Your first three questions center upon the issue of whether the specific activities described therein constitute, within the meaning of R.C. 4755.50, designation of services rendered by practitioners licensed in other fields as physical therapy. R.C. 1.42 sets forth the following rule of construction:

Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

The Random House Dictionary of the English Language 391 (unabridged ed. 1973) defines the term "designate," in part, as "1. to mark or point out; indicate; show; specify. 2. to denote; indicate; signify. 3. to name; entitle, style."

Applying the rule of common usage set forth in R.C. 1.42, I am of the opinion that the offering or advertising of physical therapy as a treatment service by the practitioners listed in your first question amounts to a designation of the services rendered by such practitioners as physical therapy. Since designation of such services as physical therapy is beyond the purview of R.C. 4755.50, I am of the opinion that the offering or advertisement of physical therapy by such practitioners would be in contravention of R.C. 4755.48(B), which prohibits any person not licensed as a physical therapist or physical therapist assistant from practicing physical therapy or in any way holding himself out as being able to practice physical therapy.

Similarly, in response to your second question, I am of the opinion that the licensed practitioners under consideration may not advertise or hold themselves out as physical therapists. R.C. 4755.48(B) prohibits any person not licensed as a physical therapist or physical therapist assistant from holding himself out as able to practice physical therapy. Moreover, R.C. 4755.48(C) specifically prohibits the use by any individual not licensed under R.C. 4755.40 to 4755.50 of words, letters, abbreviations or insignia indicating or implying that such person is a physical therapist or physical therapist assistant. See Op. No. 75-053. While R.C. 4755.50 operates to ensure that practitioners licensed in other fields are not prohibited by R.C. 4755.48(B) and (C) from rendering services within their fields, the provisions of R.C. 4755.50 specify that services rendered by such professionals shall not be designated as physical therapy. In light of R.C. 4755.48(B) and (C), I am of the opinion that such practitioners may not advertise or hold themselves out as physical therapists.

Your third question raises the issue of whether a bill for physical therapy services submitted by a practitioner licensed in one of the fields under consideration constitutes a designation of the service rendered by such practitioner as physical therapy. Applying the definition of the term "designation" and the rule of common usage set forth above to this issue, I am of the opinion that when one of the licensed practitioners under consideration submits a bill for his services that identifies the services rendered as physical therapy, such services have been designated as physical therapy. Accordingly, I am of the opinion that such designation is outside the purview of R.C. 4755.50 and is in violation of R.C. 4755.48(B) and (C).

In summary, then, it is my opinion, and you are so advised, that:

1. Under the terms of R.C. 4755.50, a licensed physician, surgeon, podiatrist, nurse, dentist, occupational therapist, chiropractor, mechanotherapist or a licensed practitioner of another limited branch of medicine may lawfully render and bill for any service within the purview of his or her license, notwithstanding that such service may also fall within the definition of "physical therapy" set forth in R.C. 4755.40, provided that such service is not designated as physical therapy. (1975 Op. Att'y Gen. No. 75-053 modified.)
2. Such licensed practitioners may not offer, advertise or bill for physical therapy services.
3. Only persons who are licensed pursuant to R.C. 4755.40 through 4755.50 may advertise or hold themselves out as physical therapists. (1975 Op. Att'y Gen. No. 75-053 followed.)