

OPINION NO. 87-054**Syllabus:**

The Bureau of Motor Vehicles may issue physician license plates under R.C. 4503.15 to any person holding a valid license to practice medicine issued under R.C. Chapter 4731. A chiropractor, licensed under R.C. Chapter 4734, is not licensed to practice medicine for purposes of R.C. 4503.15 and is not entitled to a physician license plate.

To: William M. Denihan, Director, Ohio Department of Highway Safety, Columbus, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, July 10, 1987

I have before me your request for my opinion concerning whether or not the Bureau of Motor Vehicles may issue physician license plates to chiropractors. Special physician license plates are issued to qualified individuals pursuant to R.C. 4503.15, which provides:

Owners or lessors whose lessees of motor vehicles are residents of this state, and hold an unrevoked and unexpired license duly admitting them to the practice of medicine in this state, upon application, accompanied by proof of the issuance to the applicant, by this state, of a license authorizing him to engage in the practice of medicine, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of the regular license fee, as prescribed under sections 4503.04 and 4503.10 of the Revised Code, and the payment of an additional fee of five dollars, which shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the

issuing of such licenses, shall be issued validation stickers and license plates, or validation stickers alone when required by section 4503.191 of the Revised Code, for private passenger cars, upon which license plates, in addition to the letters and numbers ordinarily inscribed thereon, shall be inscribed the word "physician." (Emphasis added.)

R.C. 4503.15 requires that the applicant for a physician license plate have an unexpired "license authorizing him to engage in the practice of medicine." Thus, to answer the question of whether or not physician license plates may be issued to chiropractors, I must determine whether or not chiropractors are licensed to engage in the practice of medicine for purposes of R.C. 4503.15.

Chiropractors are licensed under R.C. Chapter 4734. R.C. 4734.09 defines the practice of chiropractic:

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 chiropractic" 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.

An individual holding a valid, current certificate of registration to practice chiropractic is entitled to use the title "doctor" or "doctor of chiropractic" and is a "physician" for the purposes of Chapter 4123 of the Revised Code, and the program established under section 5111.02 of the Revised Code. (Emphasis added.)

This statute clearly expresses a legislative intent that chiropractors are not engaged in the practice of medicine. The first sentence expressly states that the holder of a license issued under R.C. Chapter 4734 is entitled "to practice chiropractic in this state." Manifestly, the practice of chiropractic is not the practice of medicine. The General Assembly, by choosing to separately refer to the practice of medicine and the practice of chiropractic, clearly does not consider the disciplines to be the same. Compare, R.C. 4731.34 (defining "practicing medicine"). Furthermore, the final paragraph of R.C. 4734.09 expressly provides that a chiropractor may be considered a "physician" for the purposes of R.C. Chapter 4123, which regulates worker's compensation, and for purposes of a medical assistance program provided by the department of human services pursuant to R.C. 5111.02. The Ohio Supreme Court has noted that according to the statutory

construction doctrine expressio unius est exclusio alterius, where a statute lists a specific class, it may be implied that those not listed were not intended to be included in the class. State ex rel. Boda v. Brown, 157 Ohio St. 368, 105 N.E.2d 643 (1952). This reasoning formed the basis for the court's later decision in Fort Hamilton-Hughes Memorial Hospital Center v. Southard, 12 Ohio St. 3d 263, 466 N.E.2d 903 (1984). In that case, the court held that R.C. 3701.351, which allows hospitals to grant privileges to medical physicians, osteopathic physicians, podiatrists and dentists, permits hospitals to deny those privileges to chiropractors. The court reasoned that by naming a specific class of medical professionals in R.C. 3701.351, the General Assembly intended to exclude those classes not mentioned. In the same way, because R.C. 4734.09 does not provide that chiropractors may be considered to be "physicians" for purposes of R.C. 4503.15, I must conclude that the General Assembly did not intend to group chiropractors among those entitled to receive physician license plates.

In addition to the language of R.C. Chapter 4734, which reflects a legislative intent to distinguish chiropractors from physicians, it is apparent from R.C. Chapter 4731 that chiropractors are not licensed to engage in the practice of medicine. R.C. 4503.15 conditions issuance of a physician license plate upon licensure to engage in the practice of medicine. In addition to the observation that chiropractors are specifically licensed to practice chiropractic and not medicine, an examination of the statutes related to the regulation of medical professionals in R.C. Chapter 4731 reveals that chiropractors are not licensed to engage in the practice of medicine for purposes of that chapter. "Practicing medicine" is defined in R.C. 4731.34, which provides:

A person shall be regarded as practicing medicine, surgery, podiatry, or midwifery, within the meaning of sections 4731.01 to 4731.60, inclusive of the Revised Code, who uses the words or letters, "Dr.," "Doctor," "Professor," "M.D.," "D.S.C.," "Pod. D.," "M.B.," or any other title in connection with his name which in any way represents him as engaged in the practice of medicine, surgery, podiatry, or midwifery, in any of its branches, or who examines or diagnoses for compensation of any kind, or prescribes, advises, recommends, administers, or dispenses for compensation of any kind, direct or indirect, a drug or medicine, appliance, mold or cast, application, operation, or treatment, of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease, provided that the treatment of human ills through prayer alone by a practitioner of the Christian Science church, in accordance with the tenets and creed of such church, shall not be regarded as the practice of medicine; and provided further that sanitary and public health laws shall be complied with, and that no practices shall be used which may be dangerous or detrimental to life or health and that no person shall be denied the benefits of accepted medical and surgical practices.

The use of any such words, letters, or titles in such connection or under such circumstances as to induce the belief that the person who uses them is engaged in the practice of medicine, surgery, podiatry, or midwifery, is prima-facie evidence of the

intent of such person to represent himself as engaged in the practice of medicine, surgery, podiatry, or midwifery.¹

Under R.C. 4731.14, the State Medical Board has authority to issue a certificate allowing persons to engage in the practice of medicine and surgery, or osteopathic medicine and surgery. That statute provides in pertinent part:

If the applicant passes the examination, and has paid the required fee, the state medical board shall issue its certificate signed by its president and secretary, and attested by its seal....Such certificate shall be prominently displayed in the physician's office or place where a major portion of such physician's practice is conducted and shall

¹ R.C. 4731.36 lists certain classes of individuals exempted from the regulation of the practice of medicine under R.C. Chapter 4731. It provides:

(A) Sections 4731.01 to 4731.47 of the Revised Code shall not prohibit service in case of emergency, or domestic administration of family remedies. Such sections shall not apply to a commissioned medical officer of the United States army, navy, or marine hospital service in the discharge of his professional duties, or to a regularly qualified dentist when engaged exclusively in the practice of dentistry, or when administering anaesthetics, or to a physician or surgeon residing in another state or territory who is a legal practitioner of medicine or surgery therein, when in consultation with a regular practitioner of this state; nor shall such sections apply to a physician or surgeon residing on the border of a neighboring state and authorized under the laws thereof to practice medicine and surgery therein, whose practice extends within the limits of this state; provided equal rights and privileges are accorded by such neighboring state to the physicians and surgeons residing on the border of this state contiguous to such neighboring state. Such practitioner shall not open an office or appoint a place to see patients or receive calls within the limits of this state.

(B) Sections 4731.51 to 4731.61 of the Revised Code do not apply to any graduate of a podiatric school or college while performing those acts that may be prescribed by or incidental to participation in an accredited podiatric internship, residency, or fellowship program situated in this state approved by the state medical board.

Since chiropractors are not included in this list, it appears that a chiropractor must comply with the licensure requirements of R.C. Chapter 4731 before being permitted to practice medicine. Licensure under R.C. Chapter 4734 is insufficient to meet the licensing requirement of R.C. Chapter 4731.

entitle the holder to practice either medicine and surgery or osteopathic medicine and surgery provided such physician maintains current registration as provided in division (A) of section 4731.281 of the Revised Code and provided further that such certificate has not been revoked, suspended, or limited by action of the state medical board pursuant to Chapter 4731 of the Revised Code. (Emphasis added.)

Similar provisions are found elsewhere in R.C. Chapter 4731 for the registration or certification of related professionals. See R.C. 4731.15 (examination and registration of practitioners of limited branches of medicine such as mechanotherapy, massage and cosmetic therapy); R.C. 4731.32 (certification of midwives); R.C. 4731.56 (certification of podiatrists).

Since chiropractors are licensed by the State Chiropractic Examining Board under the authority of a separate chapter of the Revised Code, I am drawn to the conclusion that the General Assembly did not intend to classify chiropractors among those persons licensed to "practice medicine" as defined by R.C. 4731.31. This conclusion is bolstered by the fact that chiropractors were specifically taken from under the authority of the State Medical Board and placed under the authority of the State Chiropractic Examining Board in 1975. 1975 Ohio Laws 157 (Am. S.B. 75, eff. Nov. 3, 1975) (codified in pertinent part as R.C. Chapter 4734). Am. S.B. No. 75 enacted R.C. Chapter 4734, which regulates only the practice of chiropractic. As noted in the Ohio Legislative Service Commission summary of Am. S.B. No. 75, "[t]he act creates a Chiropractic Examining Board to replace the State Medical Board as the licensing and regulatory body for the chiropractic profession." (Legislative Service Commission, Summary of 1975 Enactments, Jan.-Oct. p. 189).

In the context of your specific question, R.C. 4503.15 expressly limits the issuance of physician license plates to persons holding a valid license to practice medicine. A license to practice medicine is issued pursuant to R.C. Chapter 4731. Chiropractors are licensed under R.C. Chapter 4734. Unless a person is licensed to practice medicine under R.C. Chapter 4731, the fact that he may hold a separate professional license does not qualify him to receive the special treatment afforded by R.C. 4503.15 exclusively to those licensed to practice medicine. See Nesmith v. State, 101 Ohio St. 158, 128 N.E. 57 (1920) (noting that a licensed chiropractor requires a separate license to engage in the practice of medicine).

Therefore, it is my opinion, and you are so advised, that the Bureau of Motor Vehicles may issue physician license plates under R.C. 4503.15 to any person holding a valid license to practice medicine issued under R.C. Chapter 4731. A chiropractor, licensed under R.C. Chapter 4734, is not licensed to practice medicine for purposes of R.C. 4503.15 and is not entitled to a physician license plate.