

PHYSICIANS: It is the opinion of this office that the
PODIATRY: services of a podiatrist are not "physician's
services" as provided in Section 208.152,
RSMo. Supp. 1967, providing for benefit payments for medical
assistance on behalf of needy persons.

Opinion No. 411-1968

December 5, 1968

FILED
411

Mr. Frank Fulkerson, D.S.C.
Missouri State Board of Podiatry
921 Locust Street
Chillicothe, Missouri 64601

Dear Dr. Fulkerson:

This will acknowledge receipt of your letter under date of
October 14, 1968, wherein you requested an opinion as to the
following. I quote from your letter,

"An opinion is requested on the status
of the podiatrist in Missouri's 'Medic-
aid' program (Senate Bill No. 53, 74th
General Assembly). Section 208.152,
paragraph (5) states: 'Physician's
services, whether furnished in the office,
home, hospital, nursing home or else-
where'.

"Under a previous ruling from your office
relative to Workmens Compensation Law, a
chiroprapist (now 'podiatrist' - terms are
synonymous) was considered a physician
within the limitations placed upon him
by the statute."

Senate Bill No. 53 of the 74th General Assembly is now Sec-
tion 208.152, RSMo. Supp. 1967, part of which reads as follows:

"Benefit payments for medical assistance
may be made on behalf of those eligible
needy persons who are unable to provide
for it in whole or in part, with any
payments to be made on the basis of the

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reasonable cost of the care of reasonable charge for the services as defined and determined by the division of welfare unless otherwise hereinafter provided, for the following:

"(5) Physician's services, whether furnished in the office, home, hospital, nursing home or elsewhere;"

Your question is whether or not the services of a podiatrist would be "physician's services" within (5) of the preceding paragraph.

The term "physician" as such has been given a variety of definitions over the passage of time such as "one authorized to prescribe remedies for and treat diseases, one learned in the ancient art of relief of bodily ills, one lawfully engaged in the practice of medicine, one whose profession it is to prescribe and administer medicine in the treatment of disease, a doctor of medicine" and many others too numerous to mention. See C.J.S. 70, p. 813 et seq.

In the absence of statutory definition, it is readily seen that the term has a multitude of meanings. Nevertheless, it is an elementary rule of statutory construction or interpretation for one to determine the legislative intent and give effect to such intent. Nonberg vs. Montgomery, 387 SW2d 387.

We take cognizance of Section 334.021, RSMo. 1959. It reads as follows:

"Reference to terms in prior laws, how construed. -- Where other statutes of this state use the terms 'physician', 'surgeon', 'practitioner of medicine', 'practitioner of osteopathy', 'board of medical examiners', or 'board of osteopathic registration and examination', or similar terms, they shall be construed to mean physicians and surgeons licensed under this chapter or the state board of registration for the healing arts in the state of Missouri."

Our research reflects that this provision was first inserted in the laws of the state by the passage of Senate Bill No. 50, paragraph 22, 1959.

The wording seems clear that the term "physician" means only a physician licensed under the state board of registration for the

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healing arts.

We feel that the intent of the legislature in enacting into law Senate Bill No. 50, Paragraph 22, supra, was to limit the application of the word "physician" etc. to those professions licensed under that chapter and no other chapter as such term is used in the statutes of Missouri.

We also have taken note of your comment relative to a prior opinion of this office relative to a chiropracist being "considered a physician within the limitations placed upon him by the statute" insofar as the Workmens Compensation Law is concerned.

We call your attention to the fact that Section 334.021, RSMo. 1959 was not in existence at time of this opinion rendered March 25, 1953.

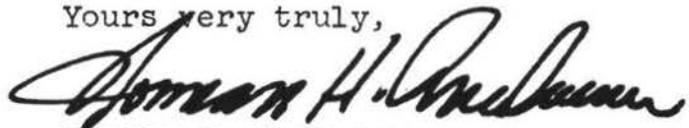
In view of Section 334.021, RSMo. 1959, we are hereby withdrawing Opinion No. 37, 3/25/52, Hansen. As pointed out above, the Legislature has specifically limited the application of the term "physician" as used in the statutes of Missouri to the categories specified in Section 334.021, RSMo.

CONCLUSION

It is the opinion of this office that the services of a podiatrist are not "physician's services" as provided in Section 208.152, RSMo. Supp. 1967, providing for benefit payments for medical assistance on behalf of needy persons.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Daniel P. Hough, Jr.

Yours very truly,



NORMAN H. ANDERSON
Attorney General