

*Note: See Hogan  
v. Hayes, 139 SW<sub>2</sub> 875.  
(1982)*

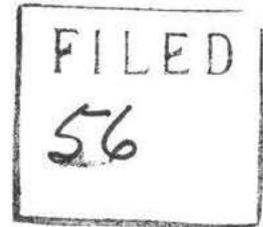
CHIROPRACTIC:

1. Under the provisions of Section 331.010, RSMo 1969, a chiropractor has authority to diagnose for the limited purpose of determining whether the particular treatment which he may legally render to a patient is proper treatment for the disease from which the patient is suffering. 2. A chiropractor is permitted to take and evaluate for diagnostic purposes only x-rays of the human spinal column and other parts of the human body for the limited purpose of determining whether the disease or ailment is one he can treat and to determine the proper treatment. 3. Section 331.010, RSMo 1969, prohibits chiropractors from employing any diagnostic tests or procedures which involve operative surgery or the administration or injection of any drug or medicine. Similarly proscribed are any procedures which are exclusively reserved to the fields of obstetrics, osteopathy, surgery or medicine.

OPINION NO. 56

September 12, 1972

Honorable J. H. Frappier  
State Representative  
2665 Sorrell Drive  
Florissant, Missouri 63033



Dear Representative Frappier:

This is in response to your request for an official opinion from this office as follows:

"The practice of chiropractic is defined in Section 331.010, Missouri Revised Statutes as follows:

'The practice of chiropractic is defined to be the science and art of examining and adjusting by hand the movable articulations of the human spinal column, for the correction of the cause of abnormalities and deformities of the body. It shall not include the use of operative surgery, obstetrics, osteopathy, nor the administration or prescribing of any drug or medicine. The practice of chiropractic is declared not to be the practice of medicine and surgery or osteopathy within the meaning of chapter 334, RSMo, and not

Honorable J. H. Frappier

subject to the provisions of that chapter.'

"(1) Under the above statutory definition, does a chiropractor have broader authority for diagnostic purposes than for therapeutic purposes?

"(2) Under the above statutory definition, is a licensed chiropractor permitted to take and evaluate for diagnostic purposes an X-ray of the human spinal column?

"(3) Under the above statutory definition, is a licensed chiropractor permitted to take and evaluate X-rays of parts of the human body other than the spinal column, such as the abdomen, skull, chest, lungs, and extremities?

"(4) Under the above statutory definition, is a licensed chiropractor permitted to employ and evaluate the results thereof laboratory procedures and diagnostic tests normally employed by physicians and surgeons in the diagnosis of illness and disease? For example, which, if any, of the following laboratory procedures are permitted: (a) Urinalysis, (b) Angiocardiography, (c) Myelogram, (d) Blood Count, (e) Electrocardiogram, (f) Electroencephalogram, (g) Pap Test, (h) Basal Metabolic Rate, (i) Pulmonary Function Studies, (j) Ventriculogram, and (k) Sputum Test."

The statutory definition of the practice of chiropractic evidences a rather spare definitional statement followed by several direct pronouncements of what chiropractic does not include. This office has recently spoken regarding the limits of the chiropractic method of treatment (see Attorney General's Opinion No. 239 issued 10-19-70). It has been contended that the scope of chiropractic diagnosis is no broader than that of chiropractic treatment. The argument is advanced that as a chiropractor is limited in treatment to ". . . adjusting by hand movable articulations of the human spinal column." so he is limited in his diagnosis to ". . . examining . . . by hand the movable articulations of the human spinal column." (Section 331.010, RSMo). Corollarly, it is contended that since a chiropractor is limited to examining and adjusting the human spinal column by hand, only abnormalities of the spine can be treated.

Honorable J. H. Frappier

Standard definitions of chiropractic reveal it to be a system of treatment of the tissues and bones or spinal column based on the belief that many of the body's disorders are caused by some impairment of the nerves of the vertebral structure (see Schmidt's Attorney's Dictionary of Medicine 1972 and Stedman's Medical Dictionary 1966). This definitional concept is rather concisely expressed by our statute defining the practice of chiropractic in Missouri. The chiropractor examines and adjusts the spine ". . . for the correction of the cause of abnormalities and deformities of the body." (Section 331.010, emphasis added).

Little is said regarding the scope of chiropractic diagnosis, but implicit in this definition is a need to discover the "abnormalities and deformities of the body" before proper treatment can be given. Other sections of Chapter 331 are helpful in evidencing legislative intent regarding the scope of chiropractic diagnosis. Section 331.030(4) requires that all applicants for licensure as chiropractors be examined in various subjects, among which are "anatomy," "physiology," "symptomatology," and "pathology." These terms have generally accepted meanings and the following definitions are taken from Dorland's Medical Dictionary, 24th Edition, 1965:

Anatomy - "concerned with the study of points connected within the diagnosis and situation of internal diseases."

Pathology - "That branch of medicine which treats of the essential nature of disease, especially of the structural and functional changes in tissues and organs of the body which cause or are caused by disease."

Physiology - "The science that treats the functions of the living organism and its parts."

Symptomatology - "That branch of medicine which treats of symptoms; the systematic discussion of symptoms; the combined symptoms of a disease."

These subjects, mandatory of state examination, evidence a legislative intent that chiropractors be competent in areas of

Honorable J. H. Frappier

medical science that directly relate to the diagnosis of abnormalities and deformities of the entire human body. For Section 331.010 must be read in pari materia with Section 331.030(4) as well as all other sections of Chapter 311. ". . . Effect must be given to all provisions. Apparent conflicts must be harmonized whenever possible. . . ." Bittiker v. State Board of Registration for the Healing Arts, 404 S.W.2d 402, 406 (K.C.Ct.App. 1966).

Section 331.030(2) further requires that chiropractic licensees have completed a minimum of four thousand class hours in instruction of four years in chiropractic college. Although the legislature was silent as to the allocation of class hours to specific courses of study, it is significant to set out excerpts from the course catalog of one of Missouri chiropractic colleges, Logan College of Chiropractic:

"Laboratory Diagnosis 206-256

Unit Credits: 3      Total Hours: 80 (Lecture  
16 - Laboratory 64)

"206 (40 hours) A study of the general characteristics of urine and the indications of abnormal findings. Procedures for chemical examination and microscopic examination, and tests for pathological substances are taught and practiced in the laboratory.

"256 (40 hours) A lecture and laboratory course including a review of the elements of the blood and a study of coagulation, with instruction in procedures for a routine blood examination. This includes obtaining of specimens, physical measurements of hemoglobin, total cell counts of red and white corpuscles, a study of stained blood for differential determinations, and a consideration of special blood pathology." Logan College of Chiropractic, Catalog, pp. 53-54.

"Physical Diagnosis 200-250-300

Unit Credits: 7.50      Total Hours: 140 (Lecture  
104 - Laboratory 36)

"200 (20 hours) A lecture and laboratory course in which the student is taught procedures for examination of the patient and recognition of the physical signs of illness and disease. In this section the student is instructed in history-taking and recording of the mental and emotional state of the patient in examination. Lectures involve the use of visual aids and there is an application of the

Honorable J. H. Frappier

procedures through group work in class, making up the laboratory portion of the course.

"250 (100 hours) Lecture and laboratory work of teaching the steps in performing a proper physical examination, which includes preparation of the patient and techniques for examination of mental status, posture, body movements, gait, speech, nutrition, stature, temperature, skin, head, face and neck, eyes, ears, nose and throat, thorax and lungs, breast, cardiovascular system, abdomen, and male genitalia, female genitalia, extremities, nervous system.

"300 (20 hours) Lecture and laboratory material presented in same general format as earlier sections of Physical Diagnosis. This section covers examination of the musculoskeletal system and presentation of some twenty-five orthopedic analytico-diagnostic tests, including Lewin, Goldthwait, Lesegue, Soto Hall, Fabere-Patrick, Laguerre and others." Logan College of Chiropractic, Catalog, p. 55.

"Clinical Diagnosis 305-350-400-450-501

Unit Credits: 23.75      Total Hours: 380

"305 (60 hours) A lecture course that covers the diseases according to the systems and organs of the body. The student is drilled in causes, symptoms, possible complications and diagnostic signs of the various diseases. Particular attention is paid to early recognition of the diseases to enable the practitioner to eliminate the causative factors as early as possible. This first section covers the cardiovascular system and blood and blood forming organs. Movies, slides, charts and graphs are used to better present the material to the student. When possible actual cases with history, x-rays and daily progress records are brought into class for discussion.

"350 (80 hours) Material is presented in same manner as in first section and specific areas covered are the kidney and the respiratory system.

"400 (80 hours) Same format of presentation as in earlier sections with specific coverage of digestive system, liver and endocrine glands.

Honorable J. H. Frappier

"450 (120 hours) This section covers diseases of the locomotor system and the nervous system.

"501 (40 hours) A discussion-type lecture course designed to correlate the information presented throughout the Clinical Diagnosis course with the other basic science courses taken. This provides an opportunity for a greater integration of knowledge and a better understanding. Anatomy, physiology, chemistry, pathology and bacteriology are brought into the discussion and chiropractic philosophy and technique are related as well." Logan College of Chiropractic, Catalog, pp. 55-56.

"X-ray Interpretation and Diagnosis 255-307-356  
Unit Credits: 11.5    Total Hours: 200 (Lecture  
168 - Laboratory 32)

"255 (40 hours) A lecture and laboratory course of study in specialized methods of marking x-rays to determine the absolute relationship of the bones of the spinal column and pelvis, utilizing their measurements. The first section covers full-spine x-ray marking, anterior to posterior view. Second section covers lateral full-spine marking. Third section covers marking of the cervical vertebrae, AP and lateral. Fourth section is a study of lateral lumbar marking. The fifth section is devoted entirely to practical application of the marking methods with students marking films.

"307 (80 hours) This is a course in spinal x-ray interpretation designed to acquaint the student with both normal and abnormal spinal alignment, position and structure. Through viewing numerous x-rays, the student becomes familiar with the normal structural relationship of the individual segments. The ten basic distortions are viewed and studied individually on film. There are question and answer sessions and discussions on x-ray films of class members and clinic patients.

"356 (80 hours) A course in x-ray interpretation covering pathology found in various parts of the body. X-ray films and slides are used to familiarize the student with those conditions to be noted on film. The first section deals with bone pathology, including

Honorable J. H. Frappier

fractures, diseases of the bone, anomalies and arthritis. The second section, on the chest, includes a review of the normal respiratory system and pathology of the respiratory organs. The gastrointestinal tract is covered, including the esophagus, stomach, small intestine and colon, the biliary tract, the urinary tract. The last section covers special examinations and procedures. X-ray films and slides are used in the presentation of the material along with the illustrations in the text." Logan College of Chiropractic, Catalog, pp. 60-61.

Obviously, a chiropractor is not authorized to practice anything and everything he has been taught in chiropractic college (see Colorado Chiropractic Association v. State, 467 P.2d 795 (Colo. banc 1970); Crees v. California State Board of Medical Examiners, 28 Cal.Rptr. 621 (Cal.App. 1963)), but it does indicate that a significant part of the Missouri chiropractic training has been spent in diagnostic theory and techniques.

In addition to the above cited sections of Chapter 331, Section 331.040 imposes certain affirmative duties on chiropractors which contemplate a scope of diagnosis broader than a mere manual examination of the spine:

"Chiropractic practitioners shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying of deaths, and all matters pertaining to public health, and such reports shall be accepted by the officer or department to whom such report is made."

Case law in Missouri and other states is helpful to demonstrate that the courts have placed on chiropractors a legal duty not only to diagnose but to do so skillfully. In a Missouri malpractice case against a chiropractor the Springfield Court of Appeals upheld a judgment against the chiropractor for malpractice and noted:

". . . he did not make much of a physical examination, took no X-rays, or diagnosed her case in any manner except by feeling of and manipulating her vertebrae with his fingers. . . ." York v. Daniels, 259 S.W.2d 109, 120 (Spr.Ct.App. 1953)

Honorable J. H. Frappier

The Missouri court in the Daniels case quoted with approval the Montana decision of Bakewell v. Kahle, 232 P.2d 127, 129 where the court stated:

"From the evidence before them, the jury could find: That defendant made a wrong diagnosis or analysis of plaintiff's condition, and that her stiff neck, headaches and sore spot behind the right ear were not due to vertebrae out of place; that there were no vertebrae out of place and the x-ray picture, taken by defendant, so showed; and that defendant should have given plaintiff no adjustment.

"The jury could also find: That during the April 8th adjustment, after plaintiff directed defendant to stop, defendant continued adjustment and manipulation with his hands and caused a rupture of a brain tumor, resulting in injury to plaintiff."

The court in the Bakewell case held that since chiropractors were members of the healing arts, the obligation to make a "skillful and careful diagnosis of the ailment of a patient" applied to chiropractors.

The Supreme Court of Ohio in Willet v. Rowekamp, 16 N.E.2d 457 (Ohio 1938) found sufficient negligence on the part of a chiropractor when proper diagnostic techniques would have revealed a sacroiliac dislocation. The court stated at page 459:

". . . there is some evidence that the failure to use X-ray resulted in an erroneous diagnosis, and evidence in the record indicates that the use of X-ray is required, it being difficult to diagnose such subluxation or dislocation without the employment of X-ray. . . . Diagnosis must be regarded as important as is the treatment to be administered, for faulty diagnosis may result in treatment which is not only correctional and curative, but is positively harmful in character."

Other jurisdictions have affirmed similar malpractice judgments against chiropractors for failure to diagnose diphtheria in a patient, Janssen v. Mulder, 205 N.W. 159 (Mich. 1925), and tubercular meningitis, Abos v. Martyn, 88 P.2d 797 (Cal. 1939).

Honorable J. H. Frappier

What then is the legal scope of chiropractic diagnosis? Undoubtedly, it is absurd to construe Section 331.010 as strictly limiting a chiropractor to examination of the human spinal column by hand only (presumably, such examination would have to be conducted blindfolded); furthermore, malpractice case law requires a chiropractor to do much more than a manual examination of the spine in his diagnostic approach. The answer then to your first question is yes, a chiropractor does have somewhat broader authority for diagnostic purposes than for therapeutic purposes.

Does this mean that a chiropractor has authority and facility to diagnose generally as does a physician? Clearly not. Many diagnoses are necessarily forbidden to the chiropractor by the effect of the strict statutory proscription against the use of operative surgery and the administration of any kind of drug or medicine. If a general rule regarding the scope of chiropractic diagnoses were to be stated, this office is persuaded by the approach taken by the Superior Court of Pennsylvania in Howe v. Smith, 199 A.2d 521, 524 (Pa. 1964):

"Of course, chiropractors may and must diagnose before they treat. However, in their argument here they have failed to recognize the obvious distinction between the authority to diagnose generally and the authority to diagnose for the limited purpose of determining whether the particular treatment which they may legally render to a patient is proper treatment for the disease from which the patient is suffering."

Your second and third questions concern the use of x-ray by chiropractors. Chapter 331, the Chiropractic Law, is silent regarding the use of x-ray by chiropractors for diagnostic purposes. X-ray, we note, is not operative surgery, obstetrics, or osteopathy, nor does it involve the administration or prescription of any drug or medicine. Chapter 334, RSMo 1969, the Physicians and Surgeons Law, is similarly silent on the subject of x-ray. Nowhere is the use of x-ray for diagnosis reserved exclusively to the practice of medicine. Case law in Missouri and other states reveals nothing which would prevent chiropractors from using x-ray as a diagnostic technique. In fact, the Springfield Court of Appeals in York v. Daniels, *supra*, found reason to affirm a malpractice judgment against a chiropractor because he had not taken x-rays.

Other jurisdictions have found that x-ray is not a field exclusively reserved to medical doctors. In Dorr, Gray & Johnston v. Headstream, 295 S.W. 16, 17 (Ark. 1927) the Supreme Court of

Honorable J. H. Frappier

Arkansas held that a chiropractor was competent to testify as an expert witness on x-ray in a malpractice suit against a physician:

". . . The X-ray is largely a scientific field unto itself, and any one who by study, observation, and experience in that particular branch of science possesses knowledge and skill therein beyond that of persons of common knowledge is competent to testify as an expert witness. (citations omitted)

"This court is committed to the doctrine that it is not necessary for one to be a physician in order to be an X-ray specialist and entitle him to testify as an expert. . . ."

The Arkansas court quoted with approval the holding of the Supreme Court of Minnesota in an earlier case involving x-ray:

". . . The so-called X-rays, discovered by Roentgen, have been recognized and known to scientists, both in and out of the medical profession, for some eight years. During this time the apparatus for the generation of the X-rays, together with the flouroscope, has been used very generally by electricians, professors of physics, skiagraphers, physicians, and others, for experimental and demonstrative purposes. It is a scientific and mechanical appliance, the operation of which is the same in the hands of the college professor, or the physician of the allopathic, homeopathic, or any other school of medicine. It may be applied by any person possessing the requisite scientific knowledge of its properties, and there would seem to be no reason why its application to the human body may not be explained by any person who understands it. . . ." Henslin v. Wheaton, 97 N.W. 882, 883 (Minn. 1904)

The use of x-ray as a diagnostic tool by chiropractors was the subject of Attorney General Opinion No. 32 issued March 10, 1953 (see enclosed). This opinion held that a chiropractor may use x-ray to take and interpret x-ray pictures as an aid in diagnosis. We believe that a chiropractor may use x-ray as a diagnostic technique for the limited purpose of determining whether the treatment which he may legally render to a patient is the proper treatment

Honorable J. H. Frappier

for the ailment from which the patient is suffering. Thus, the answer to your second and third questions is yes.

Your fourth question regarding the specific laboratory procedures and diagnostic tests is more troublesome. It is very difficult to ascertain from either Chapter 331 or 334, RSMo 1969, which of these specific diagnostic tests are permitted to chiropractors and which are not. Certainly, any tests or procedures which involve operative surgery or the administration or injection of any drug or medicine are clearly prohibited. Similarly proscribed are any procedures which are exclusively reserved to the fields of obstetrics, osteopathy, surgery or medicine. It would be extremely difficult for this office with its limited information to pass judgment on each of these tests; more properly, it is the job for the courts and the legislature. We do note, however, that the rules and regulations of the Missouri Board of Chiropractic state that chiropractors are not considered qualified to employ many diagnostic procedures, three of which are ones listed in the opinion request: angiocardiology, myelogram and ventriculogram. Regulation No. 30, Rules and Regulations of the Missouri Board of Chiropractic on file with the Secretary of State. In noting the above procedures proscribed by the Board, this office does not thereby intend to pass judgment on those procedures permitted by Regulation No. 30.

#### CONCLUSION

The opinion of this office is as follows:

1. Under the provisions of Section 331.010, RSMo 1969, a chiropractor has authority to diagnose for the limited purpose of determining whether the particular treatment which he may legally render to a patient is proper treatment for the disease from which the patient is suffering.

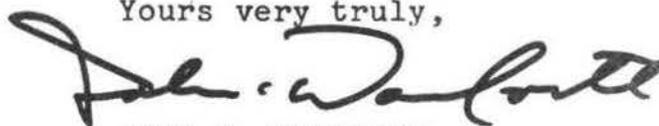
2. A chiropractor is permitted to take and evaluate for diagnostic purposes only x-rays of the human spinal column and other parts of the human body for the limited purpose of determining whether the disease or ailment is one he can treat and to determine the proper treatment.

3. Section 331.010, RSMo 1969, prohibits chiropractors from employing any diagnostic tests or procedures which involve operative surgery or the administration or injection of any drug or medicine. Similarly proscribed are any procedures which are exclusively reserved to the fields of obstetrics, osteopathy, surgery or medicine.

Honorable J. H. Frappier

The foregoing opinion, which I hereby approve, was prepared by my assistant, Leland B. Curtis.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH  
Attorney General

Enclosures: Op. No. 32  
3-10-53, Geekie

Op. No. 239  
11-10-70, Holt