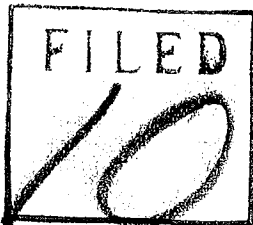


OPTOMETRISTS: A naturopath not licensed as a physician or surgeon  
NATUROPATHS: in this state, is not authorized under Sec. 336.120  
LICENSES: (1) to practice optometry without a certificate of  
PROFESSIONS: registration from the State Board of Optometry.



October 4, 1954

Dr. J. R. Bockhorst  
Secretary  
Missouri State Board of Optometry  
359 Paul Brown Building  
St. Louis 1, Missouri

Dear Sir:

By your letter of September 16, 1954, you requested an official opinion as follows:

"As Secretary-Treasurer of the Missouri State Board of Optometry, I have been instructed to seek an opinion from your office relating to the following question; Can a person claiming to be a 'Naturopath' practice the examining and prescribing and diagnosing of anomalies of the human eye, claiming exemption from the operation of the Optometry Law, under Section 336.120?

"The Board has received a complaint that one, \_\_\_\_\_, of Warsaw, Missouri, is practicing optometry without benefit of license, claiming that he is a Naturopath. We are further advised that the Prosecuting Attorney of Benton County wishes to have an opinion from your office, before he is willing to take action against Mr. \_\_\_\_\_.

\* \* \* \* \*

"It will be noted that the only physicians and surgeons who have been deemed exempt under the provisions of this chapter are registered medical physicians, licensed by the State Board of Medical Examiners pursuant to the provisions of Chapter 334, and osteopathic physicians licensed by the

Dr. J. R. Bockhorst:

State Board of Osteopathy pursuant to the provisions of Chapter 337."

\* \* \* \* \*

All statutory citations are Revised Statutes of Missouri, 1949. Section 336.020 makes it unlawful to practice optometry in this State without a certificate of registration from the State Board of Optometry. The practice of optometry is defined by Section 336.010 to be:

"Any one of any combination of the following practices constitutes the practice of optometry:

"(1) The examination of the human eye, without the use of drugs, medicines or surgery, to ascertain the presence of defects or abnormal conditions which can be corrected by the use of lenses, prisms or ocular exercises,

"(2) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye or the range of power of vision of the human eye.

"(3) The prescription or adaptation without use of drugs, medicines or surgery, of lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye or to adjust the human eye to the conditions of special occupation. No registered apprentice may independently practice optometry. A registered apprentice may, however, under the immediate personal supervision of a registered optometrist, assist a registered optometrist in the practice of optometry."

Section 336.120 provides, in part, as follows:

"Persons exempt from operation of law.--  
The following persons, firms and corporations are exempt from the operation of the provisions of this chapter except the provisions of section 336.200:

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"(1) Physicians or surgeons of any school lawfully entitled to practice in this state;"

The word "physician" is defined in 70 C.J.S., paragraph 1, pages 813, 814, as follows:

"A word derived from the Greek word 'phusis,' meaning nature, and defined 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 skilled in both medicine and surgery; one versed in, or practicing the art of, medicine; one who practices the art of healing disease and preserving health; one who professes or practices medicine, or the healing art; one whose profession it is to prescribe and administer medicine in the treatment of disease, or the relief of the sick, after diagnosing the complaint; a person skilled in physic or the art of healing; one duly authorized to treat diseases, especially by medicines; a doctor of medicine; a person who has received the degree of doctor of medicine from an incorporated institution. It is the broadest term our language contains applicable to one who practices medicine, including both medicine and surgery in its original meaning. It is not limited to the disciples of any particular school, but is of very wide significance, and includes many specialists within the field of medicine. It may, but does not always, include dentists. While it has been said that 'physician' includes the term 'surgeon,' it has also been said that a physician is often distinguished from a surgeon."

The word "surgeon" is defined by 70 C.J.S., paragraph 1, page 816, as follows:

"A physician who treats bodily injuries and ills by manual operation and the use of surgical instruments and appliances; one whose profession or occupation is to cure diseases or injuries of the body by manual operation; one who practices surgery."

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Both of the above connote persons who profess to cure or treat the sick. It is made unlawful to profess to cure and attempt to treat the sick unless licensed to do so. This provision is made by Section 334.010:

"Practitioner shall be registered physician.-- It shall be unlawful for any person not now a registered physician within the meaning of the law to practice medicine or surgery in any of its departments, or to profess to cure and attempt to treat the sick and others afflicted with bodily or mental infirmities, or engage in the practice of midwifery in the state of Missouri, except as herein provided."

Exceptions from the above are made by Section 334.150, which reads:

"Sections 334.010 to 334.180 not applicable to certain persons.-- It is not intended by sections 334.010 to 334.180 to prohibit gratuitous service to and treatment of the afflicted, and sections 334.010 to 334.180 shall not apply to commissioned surgeons of the United States army, navy, and United States public health service while in the performance of their official duties, nor to any licensed practitioner of medicine and surgery in a border state attending the sick in this state; provided, he does not maintain an office or appointed place to meet patients or receive calls within the limits of this state; and provided, that such practitioner comply with the statutes of Missouri and the rules and regulations of the department of public health and welfare relating to the reports of births, deaths and contagious diseases, nor shall said section apply to the provisions of chapter 337, RSMo 1949. And sections 334.010 to 334.180 shall not apply to persons who endeavor to cure or prevent disease or suffering by spiritual means or prayer; provided, that quarantine regulations relating to contagious disease are not infringed upon;

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provided further, that no provision of this section shall be construed or held to in any way with the enforcement of the rules and regulations adopted and approved by the division of health of the state department of public health and welfare or any municipality under the laws of this state for the control of infectious or contagious diseases."

The laws of Missouri also provide for the licensing and regulation of chiroprudists, chiropractors, dentists, and osteopaths, as well as practitioners of medicine. Those professions are either expressly or impliedly exempt from the operation of Section 334.010 et seq. within the particular field of each profession. However, we nowhere find an exemption from Section 334.010 for naturopaths, nor do we find any provision for licensing of naturopaths as such. Therefore, we must conclude that naturopaths are not lawfully entitled to practice as such in the State of Missouri, and the exemption contained in Section 336.120 (1) is not applicable.

#### CONCLUSION

It is, therefore, the opinion of this office that a naturopath, not licensed as a physician or surgeon in this state, is not authorized under Section 336.120 (1) to practice optometry without a certificate of registration from the State Board of Optometry.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON  
Attorney General

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