

1971 O. A. G.

OFFICIAL OPINION NO. 13

June 11, 1971

H. Dearing Wolf, D.O.
Board of Medical Registration
and Examination of Indiana
1330 West Michigan Street
Indianapolis, Indiana 46202

Dear Doctor Wolf:

This is in response to your request for my Official Opinion on the following question:

“May certain individuals holding limited licenses to practice medicine, such as chiropractors, form professional corporations?”

ANALYSIS

There are two Acts under which, it is argued, chiropractors can incorporate: the “Medical Professional Corporation Act,” IC 1971, 23-1-14-1, *et seq.*, the same being Burns’ Section 25-4901, *et seq.*; and the “Professional Corporation Act of 1965,” as found in IC 1971, 23-1-13-2, *et seq.*, the same being Burns’ Section 25-5101, *et seq.*

The “Medical Professional Corporation Act” presents a barrier for chiropractors incorporating within the terms of the Act inasmuch as the Act is limited to “an individual or group of individuals each of whom holds an unlimited license to practice medicine in the State of Indiana * * *” IC 1971, 23-1-14-4, the same being Burns’ Section 25-4904. Chiropractors do *not* hold an unlimited license to practice medicine, and therefore cannot incorporate under the “Medical Professional Corporation Act.”

The “Professional Corporation Act of 1965,” is restricted to only those persons who hold “* * * an unlimited license to practice a particular profession in the State of Indiana * * *” IC 1971, 23-1-13-4, the same being Burns’ Section 25-5104. (My emphasis)

The question, therefore, presents itself whether chiropractic is a profession within the meaning of the above-

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quoted language; if it is a separate profession from medicine, then chiropractors may incorporate under the "Professional Corporation Act of 1965."

The practice of chiropractic is close to the practice of medicine, and the Indiana Courts have, on occasion, held that the "practice of chiropractic is the practice of medicine" for the purpose of the Indiana statutes prohibiting the practice of medicine without proper license, *Dean v. State* (1954), 233 Ind. 25, 31, 116 N.E. (2d) 503, 506.

However, the question for incorporation purposes is whether the practice of chiropractic can be considered a "profession" apart from medicine. It is interesting to note that the Legislature has chosen to provide a separate and distinct licensing procedure for chiropractors not including them as physicians. See IC 1971, 25-10-1-1, *et seq.*, as found in *Burns' Section 63-1326, et seq.* Furthermore, the Legislature has defined chiropractic as:

"* * * the *separate and distinct* science of locating and adjusting the articulations of the spinal column for the purpose of treating human ailments by the removal of nerve interference * * *" IC 1971 25-10-1-1, *supra*. (My emphasis)

Therefore, chiropractic is treated, for licensing purposes, as being separate from medicine, and should be so treated for incorporation purposes as being separate. The only other consideration, then, is whether chiropractic is a "profession."

The term "profession" has been defined as follows:

"Vocation, calling, occupation or employment involving labor, skill, education, special knowledge and compensation or profit, but the labor and skill involved is predominately mental or intellectual, rather than physical or manual." *Black's Law Dictionary*, (4th Ed.), p. 1375, as quoted in *Steinbeck v. Gerosa* (1958), 151 N.E. (2d) 170, 173.

I believe chiropractic would indeed qualify as a "profession" under the above definition.

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CONCLUSION

It is, therefore, my official opinion that for the purpose of incorporation the practice of chiropractic is a "profession" all its own, and that chiropractors may incorporate under the "Professional Corporation Act of 1965" to the same extent as other recognized professional persons.