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STATE CAPITOL  
PHOENIX, ARIZONA

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ARIZONA ATTORNEY GENERAL

DEPARTMENT OF LAW OPINION NO. 72-8 (R-29)

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REQUESTED BY: DONALD C. GILBERT  
Executive Director  
Arizona Atomic Energy Commission

- QUESTIONS:
1. Do the Arizona Revised Statutes delineating the extent of permissible practice for chiropractic doctors permit the use of a radiopaque contrast media such as barium sulfate or "Telepaque" (brand of iopanoic acid, Winthrop Laboratories) or any similar preparation, which after oral ingestion would utilize the use of x-ray as a diagnostic procedure to determine any abnormality or pathology of the gall bladder or gastro intestinal tract?
  2. Does the same prohibition apply to the permissible practice of naturopathic doctors?

- ANSWERS:
1. No.
  2. Yes.

Title 32, Chapter 8 of the Arizona Revised Statutes governing the practice of chiropractic in Arizona and contains the following limitation therein:

"§ 32-925. Limitations upon practice of chiropractic

"A person licensed under this chapter to practice chiropractic may adjust by hand any articulations of the spinal column. He shall not prescribe for or administer medicine or

drugs, practice major or minor surgery, obstetrics or any other branch of medicine or practice osteopathy or naturopathy unless he is otherwise licensed therefor as provided by law."

Title 32, Chapter 14 of the Arizona Revised Statutes, governing the practice of naturopathy in Arizona, contains the following definition in A.R.S. § 32-1501:

"2. 'Naturopathy' includes all forms of physiotherapy and means a system of treating the abnormalities of the human mind and body by the use of drugless and nonsurgical methods, including the use of physical, electrical, hygienic and sanitary measures incident thereto."

The educational requirements of chiropractors and naturopaths are set out in A.R.S. § 32-1921 and A.R.S. § 32-1522, respectively. Training for either profession omits or exempts materia medica and surgery. Therefore, under the Arizona statutes, a practitioner of chiropractic or of naturopathy is limited to nonsurgical and nonmedical methods. Gates v. Kilcrease, 66 Ariz. 328, 188 P.2d 247 (1947).

Following the enumerated limitations, the Arizona court has held that surgery by electrical burning was beyond a naturopath's permissible practice in Nethken v. The State of Arizona, 56 Ariz. 15, 104 P.2d 159 (1940). In accord is Department of Law Opinion No. 63-85-L, that neither a chiropractor nor a naturopath may draw blood by needle-syringe, as such would constitute a form of minor surgery.

In relation to the use of drugs, the Arizona Supreme Court has declared that naturopaths may not prescribe substances as medicine in the care and alleviation of human ills, although the statute does not prohibit foods commonly used for nutritional purposes. Kuts-Cheraux v. Wilson, 71 Ariz. 461, 229 P.2d 713, supplemented 72 Ariz. 37, 230 P.2d 512 (1951).

"Drug" is defined in the Arizona Pharmacy Act as follows (A.R.S. § 32-1901.13):

"13. 'Drug' means:

"(a) Articles recognized, or for which standards or specifications are prescribed in the official compendium.

"(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

"(c) Articles other than food intended to affect the structure or any function of the body of man or other animals.

"(d) Articles intended for use as a component of any articles specified in subdivisions (a), (b) or (c), but does not include devices or their components, parts or accessories." (Emphasis added.)

In construing a similar statute defining "drug" as an article recognized in the United States Pharmacopoeia or National Formulary intended for use in the diagnosis, cure, medication, treatment or prevention of disease in man or other animal, the Ohio Supreme Court declared that the article, in addition to being recognized in an official compendium, must be intended for use in diagnosis, cure, medication, treatment or prevention of disease. State v. Winterich, 152 Ohio St. 414, 105 N.E.2d 857 (1952).

The Arizona Board of Pharmacy has advised this office that the radiopaque contrast media described above, although possibly having no therapeutic effect in themselves, both appear in the official compendium, and that the substance "Telepaque" is a prescription only item.

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Administration or prescribing any drug is beyond the scope of a chiropractic or naturopathic license. State v. Missouri Board of Chiropractic Examiners, 365 S.W.2d 773 (Mo. 1963); Kuhl v. Arkansas State Board of Chiropractic, 364 S.W.2d 790 (Ark. 1963). Because chiropractors and similarly naturopaths, may not use drugs for their therapeutic purpose, neither may they use them for diagnosis as an aid in practice, for emergency or clinical research. Crees v. California State Board of Medical Examiners, 28 Cal.Rptr. 621 (1963).

Based on the statutory definition of "drug" as an article used in diagnosis for which standards are recognized in the official compendium and the authority cited above, it is our opinion that the radiopaque contrast media described above constitutes a drug when used for diagnostic purposes by a chiropractor or naturopath, and is therefore beyond the extent of their permissible practice.

Respectfully submitted,



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The Attorney General

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