

Date Issued: June 15, 1981 (AGO 81-59)

Requested by: Dr. Al Schmiess,
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Examiners

- QUESTION PRESENTED -

Whether the term "medical" as used in section 13-01-14 of the North Dakota Century Code applies to persons engaged in the practice of dentistry.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the term "medical" as used in section 13-01-14, N.D.C.C., is not restricted in its application to medical doctors and applies to persons engaged in the practice of dentistry.

- ANALYSIS -

House Bill No. 1210, which was passed by the 1981 Legislative Assembly and is now codified as sections 13-01-14 and 13-01-15, N.D.C.C., reads, in part, as follows:

SECTION 1. LATE PAYMENT CHARGE ON ACCOUNTS RECEIVABLE. .
. .The provisions of this section shall not apply to money due on retail installment contracts, as defined in chapter 51-13; money due on revolving charge accounts, as defined in chapter 51-14; and money due on medical, hospital, and residential utility bills.

This law provides, in general, for a late payment charge to be placed on accounts receivable for certain types of debts.

A review of committee minutes regarding this legislation does not answer the question raised. Such review did indicate that it was the committee's wish not to apply the late charge to medical bills.

The definition of the practice of dentistry, as contained in section 43-28-01, N.D.C.C., reads:

43-28-01. DEFINITIONS.

1. For the purposes of this chapter, the term "practice of dentistry" shall mean and include examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae and soft tissues, and

the diagnosis, the surgical and adjunctive treatment of the diseases, injuries, and defects of the human jaw and associated structures.

Section 43-17-01, N.D.C.C., contains the definition of "practice of medicine" and states, in part, as follows:

43-17-01. DEFINITIONS.

2. "Practice of medicine" shall include the practice of medicine, surgery, and obstetrics. The following persons shall be regarded as practicing medicine:
 - a. One who holds himself out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings.
 - b. One who suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any person, with the intention of receiving, directly or indirectly, any fee, gift, or compensation.
 - c. One who maintains an office for the examination or treatment of persons afflicted with disease or injury of the body or mind.
 - d. One who attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to his name, indicating that he is engaged in the treatment or diagnosis of the diseases or injuries of human beings shall be held to be engaged in the practice of medicine.

Section 43-17-02, N.D.C.C., exempts certain persons from the provisions of chapter 43-17, N.D.C.C. Section 43-17-02, N.D.C.C., reads, in part:

43-17-02. PERSONS EXEMPT FROM THE PROVISIONS OF CHAPTER. The provisions of this chapter shall not apply to the following:

4. Dentists practicing their profession when properly licensed.

It appears clear from the definitions of "practice of dentistry" and "practice of medicine" that the term "medical" applies to the practice of dentistry. It could be reasoned that if dentistry were not a "practice of medicine" it would not have been necessary to exempt dentists from the licensing provisions of chapter 43-17, N.D.C.C.

For tax purposes, both the federal government and the State of North Dakota consider dental expenses as medical expenses. In exempting "medical . . . bills" from the provisions of sections 13-01-14 and 13-01-15, N.D.C.C., we conclude that the Legislature also intended to remove dental bills from those provisions.

Your request for an opinion asked for a response with regard to ". . . dentists, chiropractors, optometrists, etc." Because specific factual circumstances may require separate conclusions in terms of the various professionals you mention, and because it is more appropriate that questions regarding the effect of statutes on other organized professional groups are best raised by those organizations, we decline to respond beyond the scope of this opinion.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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