

Osteopathy—Optometry.

An osteopath regularly licensed as such cannot lawfully practice optometry in this State without first obtaining a certificate of registration or license as provided by Sections 1607 to 1621, inclusive, of the Revised Codes of 1907, as amended by Chapter 128 of the Laws of 1917.

J. R. Wine, Esq.,
County Attorney,
Helena, Montana.

My dear Mr. Wine:

You have referred to an opinion of this office rendered May 10, 1919, holding that osteopaths may not practice optometry in this State unless they shall first have passed the examination provided for licensing optometrists. You have suggested that inasmuch as the conclusion in that opinion is based upon the fact that an osteo-

path is not within the exceptions provided in Section 1621 of the Revised Codes, it did not give consideration to the right to use "mechanical appliances" in the case of an osteopath and "mechanical means" in the case of an optometrist, and that the matters common to the two provisions may bring osteopaths within the provisions of the law relating to optometrists. In that connection you have quoted the following sections of the statute:

"Section 1605. Every person * * * who shall * * * treat, cure, alleviate or relieve any ailment or diseases of either mind or body, or cure or relieve any * * * abnormal condition, or bodily injury or deformity, by any treatment, or manipulation * * * of a human body or any of its limbs, muscles or parts, by the use of the hands, or *mechanical appliances*, in an effort or attempt to relieve any pressure, obstruction, misplacement or defect, in any bone, muscle, ligament, nerve, vessel, organ or part of the body"

—shall be deemed practicing osteopathy.

"Section 1607. The practice of Optometry is defined as follows, namely: The employment of subjective and objective *mechanical means, without the use of drugs*, to determine the accommodative and refractive states of the eye, and the scope of the functions in general."

The objects to be attained in the two provisions are, however, different. The use of mechanical appliances by osteopaths is for the purpose of the practice of osteopathy as set forth in the definition quoted. The use of mechanical means by optometrists is not for the purpose of treatment in the sense of osteopathic treatment but is for the purpose of determining "the accommodative and refractive states of the eye," and has particular relation to the use of mechanical devices through which rays of light are permitted to pass into the eye for the purpose of discovering the errors of refraction.

Section 1608 of the Revised Codes of 1907 reads, in part, as follows:

"It shall be unlawful for any person to practice Optometry in the State of Montana, unless he shall first have obtained a certificate of registration * * *."

This provision includes all persons and in order that any person may practice optometry legally, such person must either have obtained a certificate of registration or come within some other statutory provision excepting him from the terms of Section 1608. The only exception provided by statute is provided by Section 1621, which does not include osteopaths, and as stated in the opinion of May 10, 1919, Section 1599 excludes osteopaths from the exception contained in Section 1621.

I am, therefore, of the opinion that the conclusion reached in the opinion of May 10, 1919, is correct, and that an osteopath regularly licensed as such cannot lawfully practice optometry in this State without first obtaining a certificate of registration or license as provided by Sections 1607 to 1621, inclusive, as amended in part by Chapter 128 of the Laws of 1917.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.