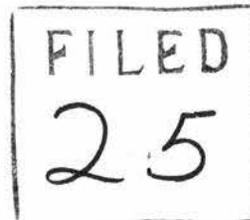


THE STATE BOARD OF
CHIROPRACTIC EXAMINERS:

The State Board of Chiropractic
Examiners of Missouri does not
have the power to subpoena
witnesses.

July 20, 1950



Doctor S. J. Durham, Secretary
State Board of Chiropractic Examiners
204 1/2 East High Street
Jefferson City, Missouri

Dear Sir:

This office is in receipt of your recent request for an
official opinion. You thus state your request:

"This office would very much appreciate
an official opinion on the following
question:

"Does the State Board of Chiropractic
Examiners have the power under the
Missouri Statutes to compel witnesses
to appear at a meeting of the Board
assembled for the purpose of consider-
ing the revocation of a practitioner's
license? If it does have this power,
by what method can these witnesses be
compelled to appear?"

The powers of the State Board of Chiropractic Examiners are
set forth in Chapter 63, R. S. Missouri, 1939. Section 10053 of
the above chapter sets forth in general the powers and duties of
the Board. This section states that "The president and secretary
shall have power to administer oaths." It makes no further mention
of any other powers relating to witnesses. Section 10053 was re-
pealed by House Revision Bill No. 2071 of the 65th General Assembly
of Missouri and now appears as Section 331.10. The same powers of
the president and secretary to administer oaths is maintained in
Section 331.10.

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Section 10058, R. S. Missouri, 1939, gives the Board power to investigate charges and to revoke licenses. That section stands unamended and reads as follows:

"It shall be the duty of the board of chiropractic examiners to carefully investigate all charges of immoral or illegal actions of anyone to whom a license to practice chiropractic in this state has been issued. Upon complaint being made to the board it shall investigate and if it deems probable cause exists for the complaint, shall furnish a copy of the complaint to the accused by registered mail, together with a notice of the time and place for the hearing of same, which shall not be less than thirty days after the depositing of said communication in the United States mail. The accused shall have an opportunity to be heard to answer such charges in person, or by attorney, and if upon such hearing it shall be proven beyond a reasonable doubt to the board, that the accused is guilty of such immoral or illegal action, or is addicted, or has been addicted, during a period of the past six months to the use of narcotics, drugs, or intoxicating liquors, or in any way guilty of deception or fraud in the practice of chiropractic, or of shielding anyone in immoral practices, criminal or illegal actions, or is guilty of any criminal or illegal actions, the board shall revoke his license."

It will be observed that nothing in the above section gives to the Board the power to subpoena witnesses, nor is this power given to the Board of Chiropractic Examiners elsewhere in the laws of Missouri either specifically or by implication. The Laws of Missouri do specifically give to certain boards, commissions, and departments of the State Government of Missouri this power to subpoena witnesses. In the granting of power to other boards and commissions, the Laws of Missouri omit any reference to the power of subpoenaing witnesses. The Board of Chiropractic Examiners is one in which this power is omitted. It is obvious that the power cannot be exercised by a board or commission unless it is given that power by law, either specifically or by implication.

42 Am. Jur. Sec. 88 says, in part:

"The power of administrative authorities to compel the attendance and testimony of witnesses

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and the production of evidence is dependent upon statutes. * * *

42 Am. Jur. Sec. 33, in part, says:

"Although administrative officers have not inherent power to require the attendance of witnesses before them and to put them under oath and require them to testify, once they are before them, they are frequently given this power by statute. * * *"

Section 10608.7 R. S. Missouri, 1939, states:

"There is hereby created and established a division of the state department of education to be known as the division of registration and examination. The following boards of this state are hereby assigned, deemed and considered to be boards of said division:

"Missouri State Board of Accountancy
State Board of Registration for Architects and
Professional Engineers
State Board of Barber Examiners
State Board of Chiropody
State Board of Chiropractic Examiners
State Board of Cosmetology
Missouri Dental Board
State Board of Embalming
State Board of Medical Examiners
State Board of Nurse Examiners
State Board of Optometry
State Board of Osteopathic Registration and
Examination
Board of Pharmacy
Missouri Real Estate Commission
Veterinary Examining Board."

Section 10608.8 R. S. Missouri, 1939, states:

"Each board herein mentioned shall function under such statutes, rules and regulations that now exist which govern each respective board, and nothing herein contained shall be construed to deprive any of the above boards from exercising such right or authority as each board now has at this time."

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CONCLUSION

It is the conclusion of this department that the Board of Chiropractic Examiners of the State of Missouri does not have the power to subpoena witnesses.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General