

STATE BOARD OF CHIROPRACTIC EXAMINERS:

State Board of Chiropractic
Examiners not authorized to
pay investigator from the
operating fund of said
Board.

February 24, 1950



Honorable Vernon H. Grogan, D.C.
Treasurer
State Board of Chiropractic Examiners
413a Court Street
Fulton, Missouri

Dear Sir:

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

"Is it within the jurisdiction of the State Board of Chiropractic Examiners to secure a private investigator or detective to obtain information necessary to revoke the license of a chiropractor for illegal practices; and, pay said investigator or detective from the operating fund of said board?"

Section 10058, R.S. Mo. 1939, states:

"It shall be the duty of the board of chiropractic examiners to carefully investigate all charges of immoral or illegal actions of any one 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

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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."

(Underscoring ours.)

The above section makes it the duty of the State Board of Chiropractic Examiners to investigate all charges of immoral or illegal actions of anyone to whom a license to practice chiropractic in this State has been issued. The question here is whether the State Board of Chiropractic Examiners, in pursuing its duty set forth above, may hire a private investigator to obtain information leading up to the filing of charges against the chiropractor suspected of illegal and immoral practices, and pay the said investigator out of the appropriation made by the Legislature to the Board.

It seems appropriate here to point out that Section 10054, R.S. Mo. 1939, requires that certain fees are to be paid to the Board by all applications for a license to practice chiropractic in this State, and that Section 10057, R.S. Mo. 1939, requires a payment of fees to the Board for renewal of such license from time to time. Section 10055, R.S. Mo. 1939, states:

"All fees shall be paid in advance to the treasurer of the board, and be turned in to the state treasury, the first of each and every month, to the credit of a fund which is hereby appropriated to the use of said board of chiropractic examiners. The compensation and expenses of the members and officers of said board shall be paid out of such fund, upon the warrant of the auditor of the state issued upon a requisition and signed by the president and secretary of said board, and under the seal of said board. On December 31st of each year, all of the balance of said fund in excess of \$5,000.00 shall be paid to the state school fund in like manner."

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Out of this fund the Legislature appropriates for each biennial period a sum of money to defray the operating expenses of the Board. The most recent appropriation was made by the 65th General Assembly by House Bill No. 28, for the period from July 1, 1949 to June 30, 1951. Section 7.190 of this Bill reads:

"There is hereby appropriated out of the State Treasury, chargeable to the State Board of Chiropractic Examiners Fund, the sum of Fourteen Thousand Two Hundred Dollars (\$14,200.00) for the use of the State Board of Chiropractic Examiners for the payment of salaries, wages and per diem of the officers, members and employees; for the original purchase of property; for the repair and replacement of property; and for the operating and other expenses, for the biennial period beginning July 1, 1949 and ending June 30, 1951, as follows:

"Personal Service:
"The salaries, wages and per diem of the Board members, secretary and stenographer. \$8,000.00

"Additions:
"Original purchase of educational equipments, (books, magazines, book cases) office furniture and equipment, and other miscellaneous equipment . 100.00

"Repairs and replacements:
"Operative equipment, consisting of laboratory, scientific and testing equipment, office furniture and equipment, transportation and conveying equipment, other and miscellaneous equipment 100.00

"Operation:
"General expense, including communication, printing, binding, travel within and without the state, insurance and premiums on bonds, rent and other general expenses; and materials and supplies, consisting of stationery and office supplies. 6,000.00

"Total out of State Board of Chiropractic Examiners Fund . . \$14,200.00"

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We have now to answer the question whether, out of any one of the above items, the Board would be justified in paying out money to an investigator.

We would here call your attention to Article IV, Section 23 of the Constitution of Missouri, 1945, which states:

"Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

(Underscoring ours.)

In view of this explicit constitutional provision above quoted, to the effect that the amount and purpose of any appropriation must be distinctly specified, we believe that it follows that the language and terms used in an Appropriation Act, descriptive of the purpose of the appropriation, must be given a specific rather than a general construction. In other words, it is to be presumed that the Legislature intended the descriptive words or terms used to amount to a designated specification of the purpose for which the money is appropriated, because the Constitution requires that the purpose be distinctly specified.

Your inquiry involves the question as to whether or not the words or terms, descriptive of the purpose for which the money in the Appropriation Act under consideration is appropriated, are broad enough in their meaning to warrant the payment therefrom of an investigator such as you contemplate hiring.

This necessitates a review of the Appropriation Bill under which the Board of Chiropractic Examiners will operate until June 30, 1951, and which is quoted above.

The first item of that Appropriation Bill is entitled "Personal Service," has an appropriation of Eight Thousand Dollars (\$8,000.00), and is for "The salaries, wages and per diem of the Board members, secretary and stenographer." Clearly, the salary of an investigator could not be paid from this item.

The second and third items, each with an appropriation of only One Hundred Dollars (\$100.00), are for equipment only.

The final item, of Six Thousand Dollars (\$6,000.00), is marked "Operation", and reads:

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"General expenses, including communication, printing, binding, travel within and without the state, insurance and premiums on bonds, rent and other general expenses; and materials and supplies, consisting of stationery and office supplies."

We do not believe that there is anything in this item which would authorize the contemplated expenditure for an investigator.

CONCLUSION

It is the conclusion of this department that the State Board of Chiropractic Examiners is not authorized to hire a private investigator, to be paid from the operating fund of said Board, to obtain information necessary to the revocation of the license of a chiropractor suspected of illegal or immoral practices.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General