

CHIROPRACTIC:

Board may only revoke licenses for reasons set forth in Statute.

q-6
September 5, 1935



Dr. Jerome F. Fontana, Secretary
State Board of Chiropractic Examiners
2605 Chippewa Street
St. Louis, Missouri

Dear Dr. Fontana:

This is to acknowledge your letter dated September 3, 1935 as follows:

"We would appreciate an opinion in regard to the enclosed advertisement.

This advertisement is believed by the Chiropractic Board to be unethical, as it is very detrimental to the Chiropractic Profession.

We have repeatedly called Dr. Counts' attention to these facts, but he has not needed our advice to cease this type of advertisement.

Enclosed you will find application, which must be filled in and signed by every applicant applying for License to practice Chiropractic in this State. You will please note question 18 and 19 of this application.

We would, therefore, appreciate knowing what powers this Board may exercise in

compelling Dr. Counts to discontinue such advertising."

Chapter 105 R. S. 1929 pertains to "Chiropractic - State Board of Chiropractic Examiners." And Section 13549 of said chapter provides, in part, as follows:

"No person shall engage in the practice of chiropractic without having first secured from the board of chiropractic examiners a license as provided in this chapter. Any person desiring to procure a license authorizing him or her to practice chiropractic in this state shall make application therefor to the board on a form prescribed thereby, giving his or her name, sex, age, which shall not be less than 21 years, name of school or college of which he or she is a graduate, and shall furnish the board satisfactory evidence of preliminary education as required in this chapter, and of good moral character, and that he or she is a graduate of a chiropractic school or college teaching chiropractic in accordance with the requirements of this chapter* * * * *

Any applicant who applies for examination to procure a license to practice chiropractic, and who has matriculated in a chiropractic school or college after the passage of this chapter, furnish satisfactory evidence of their preliminary educational qualifications, * * * * * which shall be construed as the maximum requirements for qualifications* * * * * . "

And further,

"The board shall subject all applicants

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to an examination in the following subjects: * * * * *

Section 13552 of said chapter pertains to the renewal of license and recording thereof.

Section 13553 provides, in part, 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."

And further,

"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."

We invite your attention to the fact that nothing is found in the chapter pertaining to chiropractic that gives the board the right to revoke a person's certificate for advertising. Neither do we believe that an applicant, when applying for a license, agrees to refrain from advertising and after securing the license acts contrary to the admissions in the application, gives the board any right to revoke the license or to

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claim that the license was procured by fraud. We are of said opinion because the statutes do not give the board the power to determine what constitutes proper and improper advertising. However, in connection with advertising, we believe that the board would have a right to cause a complaint to be issued to anyone advertising, if said advertising was a deception or fraud in the practice of chiropractic. That is to say, that the statute (13553, supra) specifically provides that the board shall have a right to revoke any certificate issued if the licensee was "in any way guilty of deception or fraud in the practice of chiropractic." We refuse to comment on whether or not the copy of advertisement appended to your letter is a fraud or deception in the practice of chiropractic, because that would be a matter to be decided by the board. If your board finds as a fact that such advertising is a fraud or deception in the practice of chiropractic, then we are of the opinion that you would have a right to issue a complaint to the licensee thus advertising and conduct an inquiry to the end that if such person was guilty of deception or fraud in the practice of chiropractic that his or her license would be revoked.

Yours very truly,

James L. HornBostel
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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