

MEDICINE: STATE BOARD OF HEALTH: Persons practicing the profession of Naturopathy are subject to the regulations of State Board of Health and require a license under Section 9118 R. S. Mo. 1929.

March 25, 1935.



Hon. W. W. Graves
Prosecuting Attorney
Kansas City, Missouri

Dear Sir:

This department wishes to acknowledge your request for an opinion under date of March 9th, wherein you state as follows:

"There is located here in Kansas City an institution styling itself as the Columbia College of Naturopathy, which prepares its students to heal the sick by administering concoctions of herbs.

"They have requested me to obtain an opinion from you as to whether or not they would come under the regulation of the State Medical Board and whether or not they would have to have a license to practice. They do not write any prescriptions for medicine or attempt to cure except by administering different concoctions of herbs.

"I wish you would advise me whether or not they can be proceeded against for practicing medicine without a license."

Section 9118, R. S. Mo. 1929, reads in part as follows:

"Any person practicing medicine or surgery in this state, and any person

attempting to treat the sick or others afflicted with bodily or mental infirmities, and any person representing or advertising himself by any means or through any medium whatsoever, or in any manner whatsoever, so as to indicate that he is authorized to or does practice medicine or surgery in this state, or that he is authorized to or does treat the sick or others afflicted with bodily or mental infirmities, without a license from the state board of health, as provided in this article, or after the revocation of such license by the state board of health, as provided in this article, shall be deemed guilty of a misdemeanor, and punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than one year, or by both such fine and imprisonment for each and every offense; and treating each patient shall be regarded as a separate offense. *****

In order that we may have a clear understanding of the practice of "naturopathy", it will be necessary that we attempt to define its meaning.

In the case of Ex Parte Gerber, 206 P. 1004, loc. cit. 1005, 57 Calif. App. 141, the Court said:

"Counsel for both petitioner and respondent tell us that the word 'naturopathy' has never been defined in any dictionary, but notwithstanding that fact we shall experience no great difficulty in determining whether petitioner, in practicing that system, if we may for the moment so designate it, has been following the calling of a physician and surgeon, and also whether he has been licensed to do so. ***** Webster's definition of 'therapeutics' is: 'That part of medical science which treats of the discovery and application of remedies for disease.' He defines the adjectives 'therapeutics' and 'therapeutical': 'Of or pertaining to the healing art; concerned in discovering and applying remedies for disease; curative.' The same lexicographer defines 'treatment' as the 'act

or manner of treating; management; handling; usage; as, unkind treatment; medical treatment'; and one of his definitions of the verb 'treat' is, 'to care for medicinally or surgically.' This, be it noted, is the only meaning given by him to the word 'treat' which can by any possibility fit the expression 'treatment of the eye.' It is not difficult, then from the facts given us, and with the aid of Webster, to formulate the definition that naturopathy is a process or system whereby remedies for disease are discovered and whereby they are applied to the healing of disease."

Again, in the case of Millsap v. Alderson, 219 Pac. 469, loc. cit. 473, 63 Cal. App. 518, the court said:

"By reference to the above paragraph of said articles of incorporation, it will be observed that one of the purposes of said association is 'to teach naturopathy in its theoretical and practical modes of restoring and maintaining health' and that 'the materia medica shall consist of light, air, water, clay, heat, rest, diet, herbs, electricity, massage, Swedish movements, suggestive therapeutics, chiropractic, magnetism, physical and mental culture, etc.' 'Materia medica' is defined as 'the substances employed as remedial agents.' Therefore, the substances employed by one practicing naturopathy in the treatment of the sick and afflicted would be light, air, water, etc., and a naturopath or a doctor of naturopathy would be a person who holds an unrevoked certificate from the board of medical examiners, authorizing him to treat the sick and afflicted by the use of the substances above enumerated."

From the foregoing cases it may be said that the practice of naturopathy consists of discovering remedies and applying them to the healing of disease. The "materia medica" of a doctor of naturopathy may consist of a number of things including light, air, water, clay, heat, rest, diet, electricity, massage, herbs and other substances. In the case before us, the substances

employed for the treatment of the sick and afflicted consist of a concoction of herbs.

Laws of Missouri, 1901, Section 5, page 207, made it a misdemeanor for any person to practice medicine or surgery or to attempt to treat the sick without first obtaining a license from the State board of health. This section is in accord with Section 9118, R. S. Mo. 1929, supra. The latter section has merely been broadened in its scope.

The case of State v. Smith, 135 S. W. 465, loc. cit. 469, 233 Mo. 242, was decided under the former section and the Court, in discussing what constituted the practice of medicine, said:

"It is a serious question whether defendant would not come within the original statute, as one practicing medicine or surgery. The practice of medicine is not confined to the administration of drugs; nor is surgery limited to the knife. When a physician advises his patient to travel for his health, he is practicing medicine. Broadly speaking, one is practicing medicine when he visits his patient, examines him, determines the nature of the disease, and prescribes the remedies he deems appropriate. *****"

Section 9118, R. S. Mo. 1929, provides in part as follows:

"Upon receiving information that any provision of this section has been or is being violated the secretary of the state board of health shall investigate the matter and upon probable cause appearing, shall, under the direction of the board, file a complaint with the prosecuting or circuit attorney in the county or city where the alleged offense occurred. *****"

In view of the foregoing definitions of the practice

of naturopathy as consisting of discovering remedies and applying them to the healing of disease, we are clearly of the opinion that such practice constitutes the practice of medicine as interpreted by the Missouri courts. Persons desiring to practice the profession of naturopathy are subject to the regulations of the State board of health requiring a license, and may be proceeded against under provisions of Section 9118, supra.

Respectfully submitted,

WM. ORR SAWYERS
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General

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