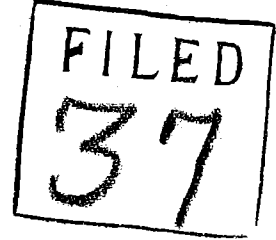


CHIROPODY:

One who is not licensed to practice chiropody who advertises and holds himself out as a "Cuneiform Specialist" violates the provisions of Section 9800 R.S.Mo. 1939.

November 3, 1947



L. A. Hansen, D.S.C.
Secretary
Missouri State Board of Chiropody
702 Shukert-Building
Kansas City, Missouri

Dear Sir:

This is in answer to your letter of October 25, 1947, in which you requested an opinion of this department. Said letter reads as follows:

"As Secretary of the Missouri State Board of Chiropody, I am confronted with a situation on which I shall appreciate your opinion, and particularly as to whether or not under the facts stated, there is a violation of Section 9796, Missouri Revised Statutes 1939, defining the word, 'chiropody'.

"A clerk in a shoe store is selling shoe pads known as 'Cuneiforms'. In order that you may better understand the situation I am sending along a sample pair which I shall appreciate your returning at the time your opinion is rendered. The particular clerk designed these shoe pads and has applied for a patent on them. He has a business card bearing his name, the name of the store, and the words inscribed below his name 'Cuneiform Specialist.'

"Question No. 1 Is it unlawful for him to use the words, 'Cuneiform Specialist' following his name?

"Question No. 2 Is the use of the same words 'Cuneiform Specialist' in the same manner on a business card by some other person specializing in the sale of 'Cuneiforms' a violation of law?

"For your information, the human body has certain bones which are known as 'cuneiforms'.

Three of them are located at the anterior part of the tarsus, which is the instep of the foot.

"I presume he has given the name 'Cuneiforms' to these shoe pads because of their relationship to the cuneiforms in the foot.

"If it is your opinion that either of the matters covered in questions Nos. 1 and 2 is a violation I intend to see that charges are filed by the Prosecuting Attorney unless the practice is stopped."

Section 9801, R.S.Mo. 1939, reads as follows:

"It shall be deemed prima facie evidence of the practice of chiropody, or of holding oneself out as a practitioner within the meaning of this article, for any person to treat in any manner the human foot by medical, mechanical or surgical methods, or to use the title 'chiropodist' or 'registered chiropodist,' or any other words, or letters, which designate, or tend to designate, to the public that the person so treating or holding himself or herself out to treat, is a chiropodist."

Section 9800, R.S.Mo. 1939, reads in part as follows:

"* * * any person not being lawfully authorized to practice chiropody in this state and registered as aforesaid, who shall advertise as a chiropodist, in any form, or hold himself out to the public as a chiropodist, shall, upon conviction thereof, for each offense be punished by a fine of not less than one hundred nor more than two hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment.* * *"

As defined by Section 9796, R.S.Mo. 1939, "chiropody" shall be taken to mean the local, medical, mechanical or surgical

treatments for the ailments of the human foot, and massage in connection therewith except amputation of the foot or toes, or the use of anaesthetics other than local, or use of drugs or medicine other than local antiseptics. The 63rd General Assembly created and established a State Board of Chiropody for the purpose of licensing and registering all practitioners of chiropody in this state, which board is to consist of four members. Certain qualifications and requirements are required before an applicant is granted a license and permitted to practice chiropody in this state. This is but an attempt on the part of the Legislature to regulate and control this field for the benefit and protection of the public in general, which is similar in many respects to the licensing of physicians and surgeons.

Under a statute making it an offense to practice medicine without a license, cases are numerous upholding the conviction of such an offender, an example of which is State v. Evertz, 202 S.W. 616, where the court said at l.c. 617:

"Neither is there any merit in the contention that the court below should have sustained appellant's demurrer to the evidence. It was shown by abundant evidence: That defendant held himself out as being authorized to treat the sick, or those afflicted with bodily or mental infirmities. That he maintained an office, near the entrance to which was a large sign in the following language, viz.: 'Evertz School of Suggestion. Oscar Evertz, S. D. Suggestionist. Treatment. Instruction.' That he circulated advertising matter concerning his method of treatment which is said to have been that of 'auto-suggestion,' and that he offered to treat the witness, Leonor Howes, in consideration of the sum of \$45 to be paid him in advance. And it is conceded that he was not a licensed physician. It cannot be doubted that a violation of the statute was shown."

Under Section 9801, R.S.Mo. 1939, supra, any person advertising or holding himself out to the public by using any of the titles listed therein, or other words or titles which may designate or tend to designate to the public that he is a chiropodist constitutes prima facie evidence of his holding himself out as a practitioner of chiropody. And Section 9800, R.S. Mo. 1939, supra, makes such advertising or holding oneself out

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to the public as a chiropodist an offense to be punished by a fine or imprisonment, or both. As you pointed out in your letter, certain bones in the human foot are known as "cuneiforms." A person, then, who advertises and holds himself out as a "Cuneiform Specialist" would, we feel, come within the terms of Section 9801, R.S.Mo. 1939, ~~supra~~, as being one who is using words to designate or tend to designate to the public that he is so treating or holding himself out to treat as a chiropodist.

CONCLUSION

Therefore, it is the opinion of this department that it is a violation of Section 9800, R.S.Mo. 1939, for one to use the words "Cuneiform Specialist" following his name when such person is not licensed to practice chiropody in the State of Missouri. It is further the opinion of this department that any person specializing in the sale of "Cuneiforms" a patented shoe pad bearing that name, is violating the provisions of Section 9800, R.S.Mo. 1939, if such person advertises and holds himself out as a "Cuneiform Specialist," and is not licensed to practice chiropody in this state.

Respectfully submitted,

Wm. C. Cockrill
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General