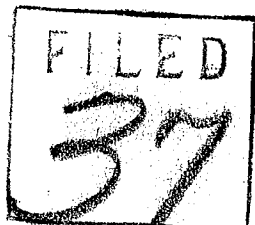


CHIROPODY:
REVOCATION OF
LICENSE:

Advertising by a person licensed to practice chiropody, in violation of the code of professional ethics promulgated by the state board of chiropody, is not sufficient basis for the revocation of the license.



December 14, 1954

Honorable L. A. Hansen, D.S.C.
Secretary, Missouri State Board of
Chiropody
800 Professional Building
Kansas City, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"The Missouri State Board of Chiropody would like to have an official opinion from your office on the following question: Does the Board have the power to revoke a chiropody license of a chiropodist who advertises directly or indirectly? I refer you to Section 330.160; (9) His unprofessional conduct?

"Enclosed you will find Dr. _____ advertisement that has been published in a St. Louis newspaper and other newspapers outside of St. Louis. Dr. _____ of St. Louis appeared before this Board on October 8, 1954 here in Kansas City. He asked the Board to get an official opinion, and said he would conform to that opinion.

"Enclosed you will find a copy of our law which was passed in 1951; also the rules and regulations of this Board which were adopted in 1950 and recorded with the Secretary of the State of Missouri. On page 16 of the Standard of Proficiency which includes the Rules and Regulations of this Board, (o) reads as follows: "It shall be considered unethical to advertise directly or indirectly by radio, newspapers, telephone directory, magazine....."

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"The Chiropody Board feels that Dr. _____ is advertising indirectly as per the enclosed advertisement. Under Section 330.140, the Chiropody Board is given the power to formulate rules and regulations governing actions of the board.

"I called the Secretary of the New York Dental Board to get the name and number of the decision of the Court of Appeals in the Bell case. I am enclosing copy of letter from Dr. Beier. I am enclosing the Code of Ethics of the Missouri Association of Chiropodists, which has been accepted by the Missouri State Board of Chiropody to explain unprofessional conduct. Nearly every chiropodist in the State of Missouri and the Missouri State Board of Chiropody do not approve of advertising directly or indirectly. The majority of chiropodists want to keep the profession of chiropody on a high plane so that it may be respected along with other upright professions. By not permitting the chiropodists to advertise, we feel that we are doing much to help to protect the health, welfare, and safety of the people of the State of Missouri. If there is any more information that you need, please feel free to call upon me."

In this opinion the Attorney General is not passing on the question of whether or not the clipping enclosed by you constitutes advertising by a chiropodist. The opinion is being written on the assumption that truthful advertising has been engaged in by a chiropodist. The only question being discussed in this opinion is the question of truthful advertising. The question of whether false, misleading or deceitful advertising would be unprofessional conduct is not passed on.

The Missouri State Board of Chiropody is only authorized to revoke a license for a violation, by a licensee, of any one or more of the several provisions of Section 330.160, RSMo. Cum. Supp. 1953.

Advertising, which is your complaint against Dr. _____ could only come under subparagraph 9 of the above section, which is "unprofessional conduct".

Now in your "Standard of Proficiency, Laws, Rules and Regulations governing The Practice of Chiropody," on page 15, "Code of Professional Ethics", the statement is made that "the State Board of Chiropody may revoke or refuse to renew any chiropodist's license, after notice and hearing for any one or more of the following

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causes (e) unprofessional conduct, as defined by the State Board of Chiropractic

In your Code of Professional Ethics, referred to above, you state in subsection (c) that,

"It shall be considered unethical to advertise directly or indirectly by radio, in newspapers, telephone directory, magazines, or periodicals, in bold face type in any printed matter, or by electric display signs, or advertising directly or indirectly prices for professional services in any printed matter or on any signs used. All listings in directories of any sort shall be uniform. No practitioner may have any part of his listing printed in any manner that will make such listing distinct from that of his fellow practitioners and under any other listing than chiropractist."

If Dr. _____ is guilty of anything, therefore, it is of violation of subsection (c), supra, which states, not that advertising is "unprofessional conduct", but that it is "unethical".

We call your attention to the following portion of the opinion of the Supreme Court of Missouri in the case of State ex rel. Lentine vs. State Board of Health, 65 S.W.(2d) 943, l.c. 949, as follows:

"* * * Unprofessional conduct as used in statutes does not mean merely unethical conduct as judged by the peculiar standards of the profession but is generally held to mean dishonorable conduct. The mere fact that conduct is unprofessional is not enough to justify revocation but it must have an additional quality, as, for example, be also dishonorable or disreputable. 21 R.C.L. p. 363.* * *"

We also note the following portion of the opinion of the state of Colorado in State Dental Examiners vs. Saville, 8 Pac.(2) 893, as follows:

"* * * The term 'unprofessional' is convertible with 'dishonorable.' Chenoweth v. Medical Examiners, supra, at page 81 of 57 Colo., 141 P. 132, 135. 'Unprofessional conduct' means that which is by general opinion considered to be grossly unprofessional because immoral or dishonorable, as distinguished from a mere violation of a code of professional ethics, prescribed

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which is by general opinion considered to be grossly unprofessional because immoral or dishonorable, as distinguished from a mere violation of a code of professional ethics, prescribed by a board of health. Aiton v. Board of Medical Examiners, 13 Ariz. 354, 114 P. 962, L.R.A. 1915A, 691.* * *"

We do not see that there is anything dishonorable or immoral in the advertising of Dr. _____. It may be unethical according to your Code of Professional Conduct, but as we pointed out, that fact alone is not sufficient grounds for the revocation of a license.

CONCLUSION

It is the opinion of this department that advertising by a person licensed to practice chiropody, in violation of the Code of Professional Ethics promulgated by the State Board of Chiropody, is not sufficient basis for the revocation of the license.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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