

CHIROPODISTS: False, misleading or deceitful advertising  
PROFESSIONS: by a chiroprapist may be sufficient ground  
LICENSES: for revocation of his license to practice  
chiroprasty.



January 13, 1955

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

Dear Mr. Hansen:

This office, on December 14, 1954, rendered an opinion to you, wherein it was held that truthful advertising by a chiroprapist was not a ground for revocation of his license to practice chiroprasty. On December 18, 1954, you asked for an opinion on the following question:

"Does the Board have the power to revoke a chiroprasty license of a chiroprapist whose advertising is untruthful, false, misleading, or deceitful?"

The grounds upon which a chiroprapist's license may be suspended or revoked are set forth by Section 330.160, RSMo Cum. Supp. 1953. That section reads:

"1. The state board of chiroprasty may refuse to issue a certificate of registration to an applicant or may refuse to renew, or may suspend or revoke, any certificate of registration of a registered chiroprapist for any of the following causes:

"(1) His conviction of a felony, as shown by a certified copy of the record of the court in which he was convicted;

"(2) His procurement of, or attempt to procure, a certificate of registration or money or any other thing of value by fraudulent misrepresentation;

Honorable L. A. Hansen, D.S.C.:

- "(3) His commission of acts constituting malpractice;
  - "(4) His continued practice with knowledge that he has an infectious or contagious disease;
  - "(5) His failure to display in his office his current certificate of registration;
  - "(6) His practicing, or attempting to practice, under a name other than his own;
  - "(7) His failure to comply with a reasonable standard of proficiency;
  - "(8) A mistake of material fact;
  - "(9) His unprofessional conduct;
  - "(10) His habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs;
  - "(11) His betrayal of a professional secret;  
or
  - "(12) His having professional connection with, or knowingly lending the use of his name to an unregistered chiroprapist.
- "2. The board after hearing may, by majority vote, revoke any certificate issued by it, and cancel the registration of any chiroprapist who has been convicted of violation of any of the provisions of this chapter. The board may also, after hearing by majority vote, revoke the certificate and cancel the registration of any person whose registration was granted upon mistake of material fact. The board may subsequently, but not earlier than one year thereafter by majority vote, reissue any certificate and register anew any chiroprapist whose certificate was revoked, and whose registration was canceled by the board, except as herein provided."

(Underscoring ours.)

Honorable L. A. Hansen, D.S.C.:

False, deceitful, or misleading advertising could only be a violation of subparagraphs number two or nine, if of any.

If a licensed chiroprapist's advertising is such as to constitute fraudulent misrepresentation concerning his professional activities, for the purpose of obtaining clients and their money, it would be a violation of subparagraph (2) of Section 330.160, supra.

In ascertaining what constitutes unprofessional conduct, we find this statement of the Supreme Court in State ex rel. Lentine vs. State Board of Health, 334 Mo. 220, 65 S.W. (2d) 943, 949:

"\* \* \* 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. \* \* \*"

In Hughes vs. State Board of Health, 159 S.W. (2d) 277, 278, in construing what might be considered "unprofessional or dishonorable conduct" the Supreme Court stated:

"\* \* \* Any conduct, although not specified, which by common opinion and fair judgment is determined to be unprofessional or dishonorable, may constitute grounds of revocation. \* \* \*"

The test, then, is whether untruthful, false, misleading, or deceitful advertising by a chiroprapist would be considered by common opinion and fair judgment to be unprofessional or dishonorable. It is noted, in passing, that such advertising may be a criminal offense under Section 561.660, RSMo 1949. That section reads:

"1. Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such

Honorable L. A. Hansen, D.S.C.:

person, firm, corporation or association, directly or indirectly, to the public for sale or distribution or with intent to increase the consumption thereof or to induce the public in any manner to enter into any obligation relating thereto or to acquire title thereto or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor.

"2. And shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than ten days nor more than ninety days, or by both such fine and imprisonment; providing, that nothing herein shall apply to any proprietor or publisher of any newspaper or magazine who publishes, disseminates or circulates any such advertisement without the knowledge of the unlawful or untruthful nature of such advertisement."

Aside from the criminal aspect, we believe that advertising by a practitioner of a healing art (and chiropractors are such within their field), calculated to deceive or delude persons afflicted by physical infirmities would be condemned by common opinion as unprofessional and dishonorable.

#### CONCLUSION.

It is, therefore, the opinion of this office that false, misleading, or deceitful advertising by a chiropracist

Honorable L. A. Hansen, D.S.C.:

may be sufficient ground for revocation of his license to practice chiropody.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON  
Attorney General

PMcG:irk