

CONSTITUTIONAL LAW : A statute declaring that the violation by
CHIROPODISTS : a chiroprapist of the Code of Ethics of
LICENSES : the Missouri Association of Chiroprapists
PROFESSIONS : or the National Association of Chiroprapists
: would constitute a ground for revocation
: or suspension of the violator's license
: to practice chiroprapody in Missouri would
: be unconstitutional, and thus void.

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December 31, 1954

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

Dear Dr. Hansen:

You recently inquired of this office how to prevent advertising by chiroprapists. By letter of December 20, 1954, we suggested that you seek amendment by the Legislature of Section 330.160, RSMo Cum. Supp. 1953, by adding to the twelve existing grounds for revocation of a license to practice chiroprapody, a thirteenth ground. On December 22, 1954, you wrote to us the following letter:

"I appreciate very much your recommendation as to how to stop advertising. I should like to get your opinion on our adding (14) His unethical conduct as described in the Code of Ethics of the Missouri Association of Chiroprapists or the National Association of Chiroprapists."

We presume that you contemplate asking the Legislature to add a fourteenth ground upon which a license may be revoked, and you wish our opinion on the constitutionality of the provision.

The legislative power of the State of Missouri is vested, by Article III, Section 1, Constitution of Missouri, 1945, in the General Assembly. The enactment of the provision set forth in your letter would give to two private organizations the power to determine what acts or omissions by chiroprapists would authorize revocation of a license granted by the State of Missouri. The question then is whether the giving of such power to the two private organizations would constitute an unlawful delegation of legislative power.

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

The Supreme Court of Kansas in *State vs. Crawford*, 104 Kan. 141, 177 Pac. 360, 2 A.L.R. 880, considered the validity of a Kansas statute similar in principle to the one you propose. In the *Crawford* case, the defendants were charged with misdemeanors under the Fire Prevention Act which provided that: "All electrical wiring shall be in accordance with the national electrical code." The court in declaring that provision to be void stated:

"But none of the cases cited has ventured so far afield as to intimate that the legislature might delegate to some unofficial organization of private persons, like the National Fire Protective Association, the power to promulgate rules for the government of the people of this state, or for the management of their property, or that the legislature might prescribe punishment for breaches of these rules. We feel certain that no such judicial doctrine has ever been announced.

* * * * *

But the fallacy of such legislation in a free, enlightened, and constitutionally governed state is so obvious that elaborate illustration or discussion of its infirmities is unnecessary. If the legislature desires to adopt a rule of the national electrical code as a law of this state, it should copy that rule, and give it a title and an enacting clause, and pass it through the senate and the house of representatives by a constitutional majority, and give the governor a chance to approve or veto it, and then hand it over to the secretary of state for publication."

We conclude that an attempted delegation by the Legislature to the private organizations you mention, of the effectual power to declare the grounds for revocation of a chiropractor's license, would be an unlawful delegation of power, and thus contravene Article III, Section 1 of the Constitution of Missouri, 1945.

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

CONCLUSION

It is, therefore, the opinion of this office that a statute declaring that the violation by a chiroprapist of the Code of Ethics of the Missouri Association of Chiroprapists or the National Association of Chiroprapists would constitute a ground for revocation or suspension of the violator's license to practice chiroprapody in Missouri would be unconstitutional, and thus void.

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

Very truly yours,

JOHN M. DALTON
Attorney General

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