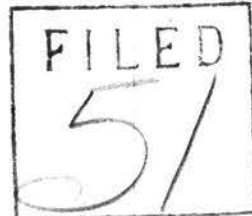


DENTISTRY: Chiropractor who examines a patient's teeth and recommends a treatment therefor, or that such teeth be extracted, violates Section 13582, R. S. Mo. 1929, amended by Laws of Mo. 1937, page 492, relating to the practice of dentistry.

October 11, 1939

10/13



Honorable Henry C. M. Lamkin
Prosecuting Attorney
Callaway County
Fulton, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion, which reads as follows:

"I would appreciate the opinion of your office in the following matter:

A chiropractor examines a patient and diagnoses that the patient's teeth are in bad condition, naming which teeth that should be extracted.

For this examination which is conducted by an electrical machine of some sort and for this diagnoses he charges a fee. He then directs the patient to a dentist (always the same dentist) for the extraction.

QUESTION: Would the foregoing be practicing dentistry in violation of Section 13582 of the Revised Statutes of Missouri, for 1929, or, would it be in violation under any other section dealing with the unlawful practice of dentistry?"

At the outset your attention is directed to Section 13546 of R. S. Missouri, 1929, relating to the practice of chiropractic and reads as follows:

"The practice of chiropractic is hereby defined to be the science and art of palpating and adjusting by hand the movable articulations of the human spinal column, for the correction of the cause of abnormalities and deformities of the body. It shall not include the use of operative surgery, obstetrics, osteopathy, nor the administration or prescribing of any drug or medicine. The practice of chiropractic is hereby declared not to be the practice of medicine and surgery or osteopathy within the meaning of article 1, chapter 53, or chapter 102, R. S. 1929, and not subject to the provisions of said chapters."

It will be particularly noticed from the above definition that the "science of chiropractic" is the art of palpating and adjusting by hand the movable articulations of the human spinal column for the purpose of correcting any deformities of the body, and such art does not extend to the use of operative surgery, obstetrics, osteopathy, or the administration of drugs. This section of the statutes we believe to be plain and unambiguous. Therefore, no room for the construction of the same exists.

In the case of State v. Smith, 233 Mo. 242, the Supreme Court of this state had occasion to consider whether or not the "science of chiropractic" was the practice of medicine. The court, in reaching its conclusion, made this observation respecting the science at page 251, et seq:

"The theory of this science is that the center and seat of all intelligence and bodily controlling force is in the brain; that all function depends upon this nerve force - universal intelligence, or whatever it may be, that is seated in the brain; that it is transmitted from the brain to the muscles and organs through, first, the spinal chord, and thence through the nerves radiating from the spinal column; that while it is not impeded, all bodily function is normal and the body is well; that when it is impeded, function is not normal, and the organ or muscle cut off from, or not in free communication with the brain, becomes diseased; that it can be impeded only by pressure or pinching of the nerves, known to the chiropractic as impingement; that nerves are impinged only where passing between bones; that they pass between bones in going through the intervertebral foramina, and are impinged when the vertebrae are from a blow, contraction of muscles, as by draught of cold air or other cause, more or less displaced or subluxated, as the chiropractor terms it. The slightly misplaced bones pinch or impinge the nerves, impeding the flow of mental impulse. The effect is the same as the introduction of a rheostat or other resistance on the circuit between an electric dynamo at a power station and an electric motor supplying power for a factory. The motor represents a vital organ; not receiving the required amount of electricity, it is hindered in its work, just as a vital organ becomes diseased by not being in free communication with the brain. When all

mental impulse is cut off, for example by what laymen term a broken back, the portion of the body and the organs beyond the point where the impulse is cut off become paralyzed, just as the motors of a huge shop, beyond a break in a wire leading from a dynamo, stop when the break is so complete as to cut off all or nearly all electricity coming to it. The experienced chiropractor, by passing his hand up and down the spinal column, is able to detect these subluxations or slight dislocations, and by a swift downward movement places the vertebrae back in their normal position, removing the pressure on the impinged nerve, and again opening up free communication between the brain and the organs controlled by the nerve so impinged."

The above observation relative to the "science of chiropractic" was taken from the definitions as contained in the brief. The court, at page 252, made a further observation, as follows:

"In actual practice the chiropractor makes no physical examination outside of the spinal column. He does not feel the pulse, take the temperature, prescribe any diet, or use any instruments. He simply examines the spinal column, determines whether or not a subluxation, as he calls it, exists, and if he finds it, adjusts the same."

We believe that the observations made by the Supreme Court in the above case are properly included within the definition of the "science of chiropractic" as laid down by the Legislature. We direct your further attention to Section 13582, R. S. Missouri, 1929, as amended by Laws of Missouri, 1937, at page 492, which reads in part as follows:

"Any person shall be regarded as practicing or attempting to practice dentistry, within the meaning of this chapter, * * * * who shall diagnose, or profess to diagnose or examine * * * *."

From the above definition of the term dentistry, one particularly notices that it includes those persons who shall diagnose or profess to diagnose or examine teeth for the purpose of correcting any deformity which may exist, or to supply artificial teeth or to administer anesthesia.

Attention is also directed to Section 13560, R. S. Missouri, 1929, as amended by Laws of Missouri, 1937, at page 482, relating in part as follows:

"From and after the passage of this article it shall be unlawful for any person to practice dentistry in the State of Missouri, * * * * until said person or persons shall first comply with the following requirements; be examined and registered by said Board, and after receiving a certificate of registration, the person receiving same, shall file such certificate of registration with the clerk of the county court of the county or counties in which he or she resides or desires to practice dentistry, and shall have the same recorded and a certificate showing the filing and recording of the same with the book and page where recorded, indorsed thereon under the hand of the clerk and the seal of said court; and thereafter any such person shall apply for a license from said Board, which license shall attest the qualifications of the person therein named and permit the person named therein to practice dentistry for the term mentioned in said license, * * * * *."

From these statutory considerations, which we believe to be plain and without ambiguity, it follows that before any person may practice dentistry as above defined, such person is required to be examined by the Dental Board and to be registered by such Board before practicing, or attempting to practice, dentistry. Obviously, from these considerations, when a chiropractor examines a patient's teeth and diagnoses that such patient's teeth are in a bad condition, naming them and advising that such teeth should be extracted, such chiropractor ceases to practice the art of palpating and adjusting by hand the movable articulations of the human spinal column for the correction of the cause of abnormalities and deformities of the body.

This observation is fortified by an expression by the Supreme Court in the Smith Case, supra, wherein this Court, at page 264, said:

"When the practitioner makes such examination of the patient as he regards sufficient to indicate to him the cause of the trouble, and to indicate its proper treatment, he has diagnosed the case."

If, therefore, the chiropractor, as has been suggested by your request for an opinion, advises the patient to have certain teeth extracted, he has, by such action, indicated a proper treatment which we believe to be without the realm of the "science of chiropractic", and therefore, such diagnoses would violate Section 13582, supra.

We direct your further attention to Section 13577, R. S. Missouri, 1929, as amended by Laws of Missouri, 1937, at page 491, which reads in part as follows:

"Any person who shall practice, or attempt to practice dentistry or dental surgery within the State of Missouri, without having been registered and licensed for that purpose, or during the period of revocation or suspension of his or her license or

certificate of registration, or who shall violate any of the provisions of this chapter, shall upon conviction thereof, be adjudged guilty of a misdemeanor * * * *. It shall be the duty of the Attorney General or of the Prosecuting Attorney of the county in which such offense shall occur, at the direction of the Attorney General, to prosecute every case to final judgment whenever his attention shall be called to a violation of this Chapter."

CONCLUSION

In view of the above, it is the opinion of this department if any chiropractor examines and diagnoses that a patient's teeth are in a bad condition and designates the teeth to be extracted, that such chiropractor violates Section 13582, supra, and is subject to prosecution under Section 13577, supra.

Very truly yours,

APPROVED:

RUSSELL C. STONE,
Assistant Attorney General

W. J. BURKE
(Acting) Attorney General

RCS:RV