

✓ CHIROPRACTIC: (1) Women entitled to practice chiropractic.
(2) Fees
(3) Names one may practice under.

9-2 ✓
September 19, 1934.



Dr. Jerome F. Fontana, Secretary
State Board of Chiropractic Examiners
2605 Chippewa Street
St. Louis, Missouri

Dear Dr. Fontana:

This is to acknowledge your letter of September 12, 1934, as follows:

"We would appreciate your opinion upon the following cases:

We have about six women Chiropractors in our state who have been issued a license in 1927 under their maiden name. Since then they have married and consequently have assumed their marriage name. The question is, can they still practice under their maiden name or should they be issued a new license under their marriage name, and what fee should they pay for this license or this service.

Another case is of a Chiropractor by the name of Otto Albert Muensterman, who has recently had his name changed by the courts here to Otto Albert Mao. The question is the same as in the above cases.

Still another question is, where a few licenses issued in 1927 were signed by the first Board with ordinary ink, which has since faded to the extent, that they are not legible. I believe in this case where the names of the Board Members have faded completely. that no charges should be

I.

Chapter 105, R. S. Mo. 1929, pertains to "Chiropractic-- State Board of Chiropractic Examiners." Section 13549 provides in part as follows:

"No person shall engage in the practice of chiropractic without having first secured from the board of chiropractic examiners a license as provided in this chapter. Any person desiring to procure a license authorizing him or her to practice chiropractic in this state shall make application therefor to the board on a form prescribed thereby, giving his or her name, sex, age, which shall not be less than 21 years, name of school or college of which he or she is a graduate, and shall furnish the board satisfactory evidence * * * * *."

Women in Missouri are recognized as eligible to practice chiropractic upon complying with the terms of Chapter 105, supra.

II.

FEES.

Section 13552 of Chapter 105, R. S. Mo. 1929, provides the fee for renewal of licenses, and provides:

"* * * Each practitioner of chiropractic shall display in his office in a conspicuous place his renewal license together with his license showing that he is lawfully entitled to practice chiropractic."

In order for one to practice chiropractic such must comply with the above section and at all times have on display his license and renewal license, which presupposes that if

one's license has been destroyed, mutilated or lost that the board would issue a new (duplicate) license to such person; and the same true as to the renewal license. No provision is made in the chapter, however, as to what fee the State Board may charge for a duplicate or copy of the license or renewal license. If a duplicate or copy of a license is furnished to a practitioner it necessarily means that it will cost the Board some sum of money to furnish same, and as the statute does not provide for the fee to be charged, we are of the opinion that the actual cost of so furnishing the duplicate or copy, or at least a nominal fee, only should be charged.

III.

NAMES ONE MAY PRACTICE UNDER.

Hereinabove we quoted from Section 13549, R. S. Mo. 1929, to show that the applicant must give his or her name when such apply for a license and at the time of applying for a license it is to be presumed that the person would give the name that he or she lawfully possesses, that is to say, that at the time of applying for a license such person gave his or her true name.

The law recognizes the fact that one may change his or her name, first, by statute, second, by marriage, third, by divorce, and fourth, by adoption. Your inquiry concerns the change of name by marriage and by court action. Therefore, we shall concern ourselves with the affect of marriage on change of names, and on the change of names by the court.

There is no statute in Missouri that we can find that provides that on marriage the wife shall take the name of the husband. It is done, however, as a matter of custom. The purpose of a name is for identification.

Corpus Juris, Vol. 45, page 366, has this to say concerning the word 'name':

"A name is a word or words, designation or appellation, used to distinguish a person or thing or class from others;"

And further (page 368):

"The surname or family name of a person is that which is derived from the common name of his parents, or is borne by him in common with other members of his family."

And further,

"At marriage the wife takes the husband's surname, with which is used her own given name; and she may use the title 'Mrs.' to distinguish her from her husband and as being a married woman. But she is not properly designated as 'Mrs.' followed by her husband's initial or given and surname, unless it be proved that she is so known."

Quoting further, Corpus Juris, Vol. 30, page 511:

"The husband, as head of the family, has the right to fix the family name. A woman upon her marriage takes her husband's surname, which becomes her legal name. However, as at common law a man may lawfully change his name, there would seem to be no legal objection to his adopting his wife's family name should he desire. Under a statute empowering a court in its discretion to change the name of any person upon proper application, the court has power to change the name of a wife against the wishes of her husband."

The facts in your case show that six women were licensed in their maiden names and later married, which, according to custom, changed their names to the names, or family names, of their husbands. And the question arises as to whether such women may still practice under their maiden names or should they be issued a new license under their married names?

Missouri has what is known as the "Married Women's Act". Chapter 20, Section 2998, R. S. Mo. 1929, provides in part as follows: "

"A married woman shall be deemed a femme sole so far as to enable her to carry on and transact business on her own account, to contract and be contracted with, to sue and be sued, etc."

In Missouri if a married woman so desires, as far as conducting her business is concerned, she may do so in contemplation of law the same as a single woman may. A single woman engaged for a period of time in the practice of chiropractic would become known to the public by her maiden name and the fact that she married would not cause her to desist practicing chiropractic under her maiden name, in our opinion. If she desired to practice chiropractic under her married name, as she would have a right to do, then it is our opinion that a new license should be issued to her and such new license should then be recorded with the circuit clerk of the county or city in which she maintains an office; and that the new license with the name under which she is practicing should be displayed in her office. Section 13552, supra.

Missouri has what is known as a registration of fictitious names, found in Article 3, Chapter 136, and Section 14342 of said article and chapter provides as follows:

"That every name under which any person shall do or transact any business in this state, other than the true name of such person, is hereby declared to be a fictitious name, and it shall be unlawful for any person to engage in or transact any business in this state under a fictitious name without first registering same with the secretary of state as hereinafter required."

The facts presented to us in your inquiry, in our opinion, do not bring a woman, practicing in her maiden name and so licensed, within said statute. That is, if a woman

is licensed in her maiden name and continues to practice in her maiden name after marriage, then she does not have to have her name registered with the secretary of state, neither does she have to have her license changed to her married name.

As to the person who has his name legally changed by order of court, it is our opinion that a new license should be issued to the person so as to make the license correspond to the name as changed by the court. When this new license is issued, such should be recorded and at all times be on display in the practitioner's office. Our answer as to the fee to be charged for such service will be that as heretofore given in Article II of this opinion.

In answer to your remaining question, as to issuance of licenses that have faded, our opinion would be that a charge should be made the same as for other duplicates or copies issued to other persons. We suggest that if a duplicate license is issued because of change of name, that the new license should recite such fact; and if a duplicate or copy is issued because the original license was lost or destroyed or illegible, then the word 'duplicate' or 'copy' should appear on the new one issued.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED:

(Acting) Attorney-General.

JLH:EG