

CHIROPODY: Shoe dealers are exempt from the provisions of Article 4 of Chapter 57, R. S. Mo. 1939.

May 20, 1942

Honorable Michael W. O'Hern
Prosecuting Attorney
Jackson County
Kansas City, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of May 18, 1942, as follows:

"Dr. L. A. Hansen, Vice President of the Missouri Association of Chiropodist's, has brought to us the enclosed advertisement of the Ventola Boot and Shoe Company, located at 3117 Troost Avenue, Kansas City, Missouri. He has asked for an opinion as to the legality of this advertisement under Section 9800 R. S. of Missouri, 1939, and Amendments thereto.

"It is Dr. Hansen's opinion that the Ventola Shoe Company has violated this law, in that they are advertising as orthopedic shoemakers, and further advertise that their arch supports are made to individual measurements, and that corrective service is given to customers on the appliances from time to time. He would like an opinion as to whether it would be necessary for the Ventola Shoe Company to have a chiropodist in their employ or have a license to practice chiropody, if they do make individual measurements on arch supports, and if they do give individual corrective service.

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"Under date of September 29th, 1939, Robert P. C. Wilson, III of your office gave Dr. W. L. Nixon, chiropodist of Jefferson City, Missouri an opinion on several similar questions and you might refer to this correspondence. Dr. Hansen is anxious to get an opinion on this as soon as possible, so that the association may take whatever action is necessary."

Attached to your letter was a newspaper advertisement, approximately 6 inches long and one column wide, over the name of "VENTOLA Boot & Shoe Rebuilder." Without quoting the advertisement in full, the pertinent parts are:

"Some Shoes Are
FOOT PROTECTORS
NOT FOOT CORRECTORS

FREE CONSULTATION
about your Shoe Problems!

When you can't stand or walk without pain come in and see JAMES VENTOLA 'Orthopedic Shoe Maker' Foot Comfort Specialist.

Foot corrections and arch supports made to your individual measurements from flexible sole leather and felt. The life of these arch supports is 2 to 10 years. They are interchangeable from one pair of shoes to another. We also give corrective service to the appliance from time to time.

We Guarantee Foot Comfort.
Our Arch Supports Must Be Fitted.
NO MAIL ORDERS"

The advertisement also depicts the human skeleton and purports to show the points of pain which may arise due to flat feet.

Section 9800, R. S. Mo. 1939, which provides the punishment for the unlawful practice of chiropody, is as follows:

"Any person who shall unlawfully obtain registration under this article, whether by false or untrue statements contained in his or her application to the board by presenting to said board a fraudulent diploma, certificate or license, or one fraudulently obtained, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred nor more than two hundred dollars, or by imprisonment for not less than three months nor more than one year or by both such fine and imprisonment; and any person not being lawfully authorized to practice chiropody in this state and registered as aforesaid, who shall advertise as a chiropodist, in any form, or hold himself out to the public as a chiropodist, shall, upon conviction thereof, for each offense be punished by a fine of not less than one hundred nor more than two hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. It shall also be unlawful for any person to practice or to profess to practice chiropody, as defined in section 9796 of this article, unless he or she shall first have obtained a certificate from the board, as hereinbefore provided. Any person who shall so practice or profess to practice chiropody shall, upon conviction thereof, be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars for each such offense."

The word "chiropody" is defined in Section 9796, R. S. Mo. 1939, which is as follows:

"The definition of the word 'chiropody' shall, for the purpose of this article, be held to be the local, medical, mechanical or surgical treatments of the ailments of

the human foot, and massage in connection therewith except amputation of the foot or toes, or the use of anaesthetics other than local, or the use of drugs or medicine other than local antiseptics."

We direct your attention particularly to the fact that there must be massage in connection with the local, medical, mechanical or surgical treatment of the ailments of the human foot to constitute the practice of chiropody. There is no statement in either your opinion request or the advertisement submitted therewith which reveals any such massage in connection with the fitting or building of arch supports by this shoe builder or manufacturer.

There is a further indication in Article 4 of Chapter 57, R. S. Mo. 1939, relating to the subject of "Chiropody," which indicates the intention of the Legislature to exempt shoe builders or manufacturers from the provisions of the article. In Section 9809 we find the following:

" * * * This article shall further not apply to manufacturers of and dealers in shoes or corrective appliances for deformed feet: * * *"

The facts in the instant case apparently bring the shoe builder in question squarely within that class to which Section 9800, R. S. Mo. 1939, and the other provisions of Article 4 of Chapter 57 do not apply.

CONCLUSION

It is, therefore, the opinion of this department that manufacturers of and dealers in shoes or arch supports are not engaged in the practice of chiropody where there is no

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massage, medical or surgical treatment of the foot in connection with the fitting of such shoes or arch supports to the individual.

Respectfully submitted

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APPROVED:

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