

1975 WL 29768 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 29, 1975

*1 R. B. Kearns, D.C.

President

South Carolina Board of Chiropractic Examiners

142 S. Ribaut Road

Beaufort, South Carolina 29902

Dear Dr. Kearns:

You have asked me to advise you whether or not your proposed Regulation permitting a student under an instructor's supervision at a Chiropractic College to perform chiropractic procedures upon a patient is a proper regulation under the enabling legislative grant of authority to you in Section 56-353 of the 1962 Code of Laws of South Carolina.

In answering this question, I must direct your attention to the enclosed Attorney General's Opinion of December 15, 1972, which addressed this question of student practice before any regulation allowing such practice had been proposed. Mr. McLeod reaches the crux of the problem in his second paragraph, when he notes that the rule-making power of the Board of Chiropractic Examiners is limited to adoption of 'reasonable rules and regulations for the transaction of business.'

This question of the Board's authority remains the deciding factor in a determination as to whether or not the Board's most recent regulation is appropriate. While it seems logical that the Board should have more power than the simple authority to establish the framework through which the Board is organized and conducts its business, a strict reading of Section 56-353 might result in that limited interpretation.

For this reason, the best course of action is still amending the Chiropractic law. The amendment would simply add to the Chiropractic Act a process which is similar to those found in the nursing statutes or the statute regulating dentistry. As Attorney General McLeod illustrated in his opinion, this proviso could be added in an exemptions section.

I regret that I cannot furnish a more definitive answer to your question, but, given the vague statutory limitations on the Board's power, it is most difficult to predict how a court might view your regulation.

Please contact me if I may be of further assistance to you.

Very truly yours,

Stephen T. Savitz

Assistant Attorney General

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