

1978 WL 34798 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 23, 1978

*1 Joyce C. Hearn
House of Representatives
State of South Carolina
Columbia, South Carolina

Dear Mrs. Hearn:

First of all I must apologize for the delay in responding to your opinion request of March 1, 1978. I was informed by a member of the staff of the Medical Affairs Committee, that a compromise bill was agreed upon and I assumed that the opinion request was no longer needed.

From the substance of your March 1, 1978 letter, it appears that you are concerned with the constitutionality of the provision dealing with the section that requires any machine that is used in Chiropractic Practice be first individually approved by the Board of Chiropractic Examiners. I believe your concern has arisen because of certain comments that I made to a staff member of your committee regarding this particular section.

My concern centered on the possibility that if the machines were required to be individually approved that the Board could, by oversight, omit the approval of a particular type of machine and yet approve specifically similar types of machines. If this hypothetical situation occurred there would be a possibility that that particular person who was being brought before the Board for violation of this provision, could argue that the approval of one type of machine and disapproval of a similar type would not be rational and could be considered arbitrary action on the part of the Board. For this reason I recommended that machines be approved in categories or reasonable classifications as is required by general principles of administrative law.

I hope this letter clears up the problems you were having and if I can be of any further assistance, please let me know.
Sincerely yours,

Richard D. Bybee
State Attorney

ATTACHMENT

A BILL

TO AMEND [SECTION 40-9-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, AS AMENDED, RELATING TO CHIROPRACTORS, SO AS TO REDEFINE THE WORD ANALYSIS AND PROVIDE FOR THE MANNER OF APPROVING MACHINES USED IN CHIROPRACTIC PRACTICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. [Section 40-9-10 of the 1976 Code](#), as last amended by Act 745 of 1976, is further amended to read:

‘[Section 40-9-10](#). As used in this chapter:

(a) 'Chiropractic' is defined as that science and art which utilize the inherent recuperative powers of the body and deals with the relationship between the nervous system and the spinal column, including its immediate articulations and the role of this relationship in the restoration and maintenance of health.

(b) 'Chiropractic practice' is defined as the spinal analysis of any interference with normal nerve transmission and expression, and by adjustment to the articulations of the vertebral column and its immediate articulations for the restoration and maintenance of health and the normal regimen and rehabilitation of the patient without the use of drugs or surgery.

(c) 'Analysis' is defined as physical examination and the use of x-ray procedures.

***2** (d) Any machine used in 'chiropractic practice' or 'analysis' must first be individually approved by the Board of Chiropractic Examiners.'

SECTION 2. This act shall take effect upon approval by the Governor.

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