

1978 WL 35113 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 15, 1978

\*1 The Honorable Toney J. Lister  
Representative  
District No. 37  
172 North Converse Street  
Spartanburg, South Carolina 29301

Dear Mr. Lister:

You have requested an opinion as to whether a graduate of Sherman College may, pursuant to [Section 40-9-40, SOUTH CAROLINA CODE OF LAWS](#), 1976, as amended, or any other provision of law, practice chiropractic in this State without possessing a valid South Carolina Chiropractic License. It is our opinion that such a person may not.

The statute which you cited, Act No. 214, [SOUTH CAROLINA ACTS AND JOINT RESOLUTIONS](#), 1977, does modify certain of the educational prerequisites for some Sherman College graduates who wish to obtain a license to practice chiropractic in South Carolina. However, the Act does not waive the requirement of [Section 40-9-20, SOUTH CAROLINA CODE OF LAWS](#), 1976, that a person must possess a valid license issued by the South Carolina Board of Chiropractic Examiners before he may practice chiropractic in this State. The legislature has amended the applicable licensing law to permit all chiropractors who possessed a valid South Carolina license on June 30, 1978, to continue to practice without a renewal license for one year or until a new board of examiners is created. However, I understand from your inquiry that this latter provision would not apply.

In that there does not now exist a properly constituted board of chiropractic examiners, there is no provision in State law by which an applicant for a new chiropractic license may obtain a license. This applies to graduates of Sherman College in the same manner as it applies to any other person seeking for the first time to practice in this State. The fact that Sherman College graduates were given additional time to sit for the licensing examination would not give them the privilege to practice now without a license.

You suggested that the applicable law appears to raise constitutional questions. It is the position of this Office that there are no constitutional defects with the current State law which has the effect of restricting the practice of chiropractic. Indeed it would appear that the Legislature could, through the exercise of its police power, abolish outright the practice of chiropractic. See [Dantzler v. Callison](#), 230 S.C. 75, 94 S.E.2d 177 (1956), [appeal dismissed](#), 352 U.S. 939, 1 L.Ed.2d 235 (1956); [Beck v. McLeod](#), 240 F.Supp. 708 (E.D.S.C. 1965).

It is acknowledged that there are problems encountered by those individuals precluded from practicing chiropractic because the necessary licensing board does not exist. However, these problems could be alleviated by the enactment of a statute constituting a new board of examiners. This Office recommended to the leadership of both houses of the Legislature on May 11, 1978, that appropriate legislation be enacted.

In conclusion, it is the opinion of this Office that no individual can engage in the practice of chiropractic in this State without a valid license. Furthermore, it does not appear that any constitutional defects appear in the relevant State law.

Sincerely yours,

\*2 David C. Eckstrom

Staff Attorney

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