

1972 WL 25248 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1972

\*1 Hon. Harold C. Davis  
Subcommittee Chairman  
Military, Public and Municipal Affairs Committee  
House of Representatives  
State House  
Columbia, South Carolina 29201

Dear Mr. Davis:

The Attorney General has referred your letter of March 14, 1972, to me for consideration and reply.

You have requested an opinion regarding the constitutionality of House Bill 2716 which would prohibit certain types of advertising by medical doctors, dentists, osteopaths, podiatrists, optometrists, chiropractors, and others engaged in the healing arts.

It has long been recognized in this county that it is within the province of a state legislature to regulate and even prohibit advertising by members of the learned professions and this general rule has been applied to physicians, surgeons and other persons professing healing arts. See [Annot., 54 A.L.R. 400 \(1928\)](#). The United States Supreme Court upheld the constitutionality of such statutes in cases involving dentists, [Semler v. Oregon State Board of Dental Examiners, 294 U.S. 608, 79 L.Ed. 1086, 55 S.Ct. 570 \(1935\)](#) and optometrists, [Williamson v. Lee Optical of Oklahoma, Inc., 348 U.S. 483, 99 L.Ed. 563, 75 S.Ct. 461 \(1955\)](#). The argument that such legislation constitutes an invalid use of the state's police power has been consistently rejected by the courts. Other arguments such as that these statutes constitute discriminatory class legislation, that such laws deny due process and additionally are vague and uncertain, have likewise been rejected by the courts.

There would therefore appear to be no state or national constitutional provision which would prohibit the enactment of such act should the legislature reasonably see the need for it.

Sincerely yours,

Charles A. Taylor, III  
Assistant Attorney General

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