

Opinion No. 45-4746

July 7, 1945

BY: C. C. McCULLOH, Attorney General

TO: Honorable J. B. Jones Acting Governor Santa Fe, New Mexico

{*99} You have requested me to give you an opinion concerning a certain matter which you have referred to this office involving a chiropodist who operates a shoe store.

From the matters which have been referred to me by yourself and the State Board of Chiropody Examiners, it appears that the person involved has a large number of signs placed in his shoe store which have the purpose of advertising the owner in his professional capacity as a chiropodist. This is distinctly and specifically prohibited by Section 51-212 of the 1941 Compilation. While all advertising by chiropodists is prohibited by statute, I wish to point out that there is nothing in the statute which prohibits a chiropodist from entering the shoe business and advertising his shoe store. However, all such advertising should be done in such a manner as to be clearly advertising of a shoe store and not of a chiropodist and, therefore, the name of the chiropodist should not be used in such advertising of the shoe store.

In view of the foregoing, it is the opinion of this office that if radio and newspaper advertising is used in connection with a shoe store operated by a chiropodist, that all advertising matter concerning the chiropodist as such, which is now situated in the shoe shop, should be eliminated. Otherwise, the advertising of the shoe shop will be in effect advertising of the chiropodist in his professional capacity which is specifically prohibited by statute. This will necessitate the removal of all signs and other similar matters in the shoe shop giving the name of the chiropodist or other matter indicating that the shoe shop is operated by a chiropodist or that a chiropodist actually fits the shoes in the shop.

While the chiropodist may advertise his shoe shop, he may not, in any way, place advertising in the shop concerning his professional capacity as a chiropodist.

It is further called to our attention that in the classified portion of the telephone directory under the heading "Chiropodists" the particular chiropodist involved advertises his shoe store as well as having his name in such portion of the directory. In connection with this matter, we call your attention to the following portion of Section 51-212 of the 1941 Compilation which provides:

"Nothing contained in the foregoing, however, shall be construed as to prohibit the publishing in ordinary type the name, address, and telephone number of any practicing chiropodist in any newspaper or telephone book."

Therefore, it is the opinion of this office that a chiropodist is limited to the above material which may be inserted in the classified portion of the telephone book and may not add, in addition to such material, the name and location of a particular shoe store operated by such chiropodist.

By HARRY L. BIGBEE,

Asst. Atty. General