

Brazilian Chiropractors' Association vs CREFITO-3

Translation: Judgment of Federal Judge Dr Brunstein and Notice to CREFITO-3

Sao Paulo

March 3, 2009

(First Page)

Comment in italics added to clarify meaning

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Conclusion

On March 03 of 2009 I register those conclusive court findings to your honor the federal judge Dr. Diana Brunstein

(Signed illegible) RF 2757

Through the present judicial action, the Brazilian Chiropractic Association (*BCA*) requests for the petitioned authority (*CREFITO – 3, the Council of Physical Therapy and Occupational Therapy for the region of Sao Paulo*) to refrain from monitoring bachelors of chiropractic and their respective clinics, as well as from issuing violation reports against those professionals.

It alleges that the said authority understands that chiropractic is a specialty of physical therapy.

It explains, however, that chiropractic is a profession legally recognized in 42 countries, and that there are in existence two university-based undergraduate courses duly accredited by the Ministry of Education

The injunction initially accepted at pages 153/155 was suspended by the decision of pages, 184, which established that the act should follow the rite recommended by article 2 of the law 8.437/1992, which determines that the petitioned authority should manifest itself within 72 hours. (*The BCA obtained an injunction against CREFITO-3, restraining it from acting as in para 1 above. The court later agreed to suspend the injunction for 72 hours to give CREFITO-3 the opportunity to petition for removal of the injunction. In this judgment that petition was unsuccessful and the injunction was confirmed.*)

Manifestation of the petitioned authority on pages 188 and ss.

Those are the facts reported. Decided.

As demonstrated by the petitioner in its initial petition, chiropractic is a health care profession concerned with the diagnosis, treatment and prevention of conditions of the neuro-musculo-skeletal system and its effects on the general health. There is an emphasis on manual techniques, including the adjustment and/or the articular manipulation, with a particular focus on subluxations.

It is not a technique, but a profession, and this is exactly the reason for its exclusion of the scope of supervision of the petitioned authority.

The internet site www.em.wikipedia.org/wiki/chiropractic explains that in the United States and Canada the profession of chiropractic requires a minimum study of university level of 90 hours each semester of study and a minimum of 4,200 hours of instruction.

In some places there are admission exams for obtaining a license to practice chiropractic.

It is therefore evident that chiropractic is not a mere technique pertaining to physical therapy professionals, as the petitioned authority argues, but rather a profession whose regulation still lacks approved legislative proposition, notwithstanding the existence of a project of law on the subject.

The World Health Organization has divulged a document which determines basic guidelines for chiropractic education. That report also proposes different grades of licensing (limited and full license).

Furthermore, contrary to the argument of the petitioned authority, the practice of any work, practice or profession is deemed free provided the professional qualifications that the law establishes are obeyed.

In the case of chiropractic, no law in existence legislates on its practice and there is no illegality in attempting to obtain approval for practice of this profession at the national congress, with the very purpose of securing greater supervision and transparency of its standards or practice.

What is not admissible is that, based on resolutions of doubtful legality, a council claims for itself the prerogative of supervising something that is external to its cadres and field of practice.

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It is thus correct the decision given on pages 153/155, whose fundamentals I now adopt, with the addition of the considerations hereby exposed, which are the reason for which I grant the injunction and resolve for the petitioned authority to abstain from supervising and issuing violation reports to chiropractic professionals, a field that is alien to their field of practice.

This decision is to be conveyed to the petitioned authority to be abided by, as well as to be divulged within the prescribed legal timeline.

After that, to be sent to the General Attorney Ministry, and after that to return to the (CLS ?) for sentencing.

São Paulo, date above indicated

Signature (illegible)
Diana Brunstein
Federal Judge

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URGENT

Judiciary Section of São Paulo – 1st subsection
Seventh Federal Court
Avenida Paulista, 1682 – 9th floor – São Paulo, - SP

Report N. 137/2009-MS

São Paulo, March 4, 2009

Mister President

By order of your honor the federal judge of this jurisdiction, you are notified of the content of the decision proffered on pages 352/353, for **immediate abidance**, as well as to provide information in the legal term of 10 (ten) days about the alleged of the initial petition, of which a copy has been sent with the report 104/2009-MS of the Writ of Mandamus n. 2009.61.00.004375-1 petitioned by the BCA- Brazilian Chiropractic Association.

Sincerely,

(signature illegible)
BEL^a. VERIDIANA TOLEDO DE AGUIAR

Director of Secretary

To: Dear Sir
President of the Council of Physical Therapy and Occupational Therapy of the 3rd. Region –
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