

Regulation of profession of hypnosis

Number: INFORMAL

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The Honorable Burt L. Saunders
Senator, District 25
3301 Tamiami Trail East
Administration Building F, Suite 304
Naples, Florida 34112-4902

Dear Senator Saunders:

Thank you for contacting this office regarding the practice of the profession of hypnosis. I offer the following general comments in an effort to be of assistance to you.

Chapter 485, Florida Statutes, is Florida's "Hypnosis Law." As expressed by the Legislature,

"It is . . . the intent and purpose of this chapter to regulate the practice of hypnosis for therapeutic purposes by providing that such hypnotic techniques shall be used only by certain practitioners of the healing arts within the limits and framework of their own particular field of competence; or by qualified persons to whom a patient may be referred, in which event the referring practitioner of the healing arts shall be responsible, severally or jointly, for any injury or damages resulting to the patient because of either his or her own incompetence, or the incompetence of the person to whom the patient was referred."[1]

Thus, the Legislature has recognized that hypnosis for therapeutic purposes is regulated by Chapter 485, Florida Statutes, and that such practice may only be undertaken by practitioners of the healing arts or those qualified persons a patient may be referred to by a practitioner of the healing arts.[2]

The practice of hypnosis under Chapter 491, Florida Statutes, by those licensed to provide clinical, counseling, and psychotherapy services is controlled by section 491.0141, Florida Statutes.

That section provides:

"A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter."

This statute appears to recognize that there may be those who practice hypnosis for nontherapeutic purposes and who may do so as long as they do not hold themselves out as

licensed practitioners.

The Department of Health, which regulates certain practitioners of the healing arts, has advised this office that local governments also regulate the practice of hypnosis as an occupation or profession. The statutes cited above do not appear to preempt regulation of hypnotists to the state but do offer a scope of operation for local ordinances relating to the practice of hypnosis.

The problem that the National Federation of Hypnotists is encountering in Hollywood, Florida, may be the result of local enforcement rather than any actions under state statute. In an effort to assist you in resolving this matter substantial efforts were made to identify and communicate with the local government official mentioned in your correspondence. This office was unsuccessful in its efforts. If this continues to be a problem it may be appropriate to contact the city or county attorney to discuss this matter with him or her. In addition, legislative clarification may be advisable.

I trust that these informal comments may be helpful to you in advising your constituents.

Sincerely,

Gerry Hammond
Assistant Attorney General

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[1] Section 485.002(3), Fla. Stat.

[2] See s. 485.003(3), Fla. Stat., defining a "practitioner of the healing arts" as "a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, or optometry within the scope of his or her professional training and competence and within purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner."