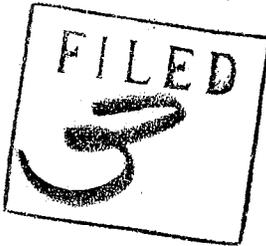


VETERINARY MEDICINE: An unauthorized person may, by proper proceeding, be restrained from the practice of veterinary medicine.



March 16, 1955

Honorable Luther Arnold
Representative, Stone County
Reeds Spring, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office, which request reads as follows:

"I would like to have your opinion on whether the State Veterinary Board or State Veterinary can, by order, prohibit a person from treating animals where he does not represent himself to be a Veterinarian by title or degree or has no office or does no advertising only the occasional treatment of animals under Senate Bill 354, Laws of 1953, relating to Veterinarians."

You inquire whether the state veterinarian or the Missouri Veterinary Board can, by order, prohibit a person from treating animals under circumstances where the party does not represent himself to be a veterinary by title or degree and only occasionally treats animals. Section 340.020, RSMo 1953 Cum. Supp., provides that it shall be unlawful for any person not licensed as a veterinarian to practice veterinary medicine or to do any act which requires knowledge of veterinary medicine for valuable consideration. Said section more fully provides, in part, as follows:

"It shall be unlawful for any person not licensed as a veterinarian under the provisions of this chapter to practice veterinary medicine or to do any act which

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requires knowledge of veterinary medicine for valuable consideration or for any person not so licensed to hold himself out to the public as a practitioner of veterinary medicine by advertisement, the use of any title or abbreviation with his name, or otherwise; * * *

The term "veterinary medicine" is defined in Section 340.010, RSMo 1953 Cum. Supp., as follows:

"(3) 'Veterinary medicine', the practice of alleviating, rectifying, curing or preventing any injury, disease, deformity or physical condition of animals other than human beings and shall include the diagnosing of any affliction, the dispensing or administration of any medicine, appliance, treatment or operation, or the advising, recommending or prescribing the administration or use of any medicine, appliance, treatment, course or program of treatment, or operation on any such animal."

There are certain well-defined exceptions to the practice of veterinary medicine by an unlicensed person treated in Section 340.020, supra. These exceptions are as follows:

" * * * except that nothing in this chapter shall be construed as prohibiting:

"(1) Any person from treating animals where a licensed veterinarian is not available in a reasonable length of time if he does not represent himself to be a veterinarian or use any title or degree pertaining to veterinary practice;

"(2) Any person enrolled in any recognized veterinary school or college working under the direct instructions, control or supervision of a veterinarian who is duly licensed under the laws of this state and whose compensation is paid solely by such licensed veterinarian from doing such acts as the licensed veterinarian may authorize or require;

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"(3) Any merchant or manufacturer from selling drugs, medicines, appliances or any other product used in the prevention or treatment of animal diseases not marked by a manufacturer's warning or recommendation that it be used by or on advice of a veterinarian, or any licensed pharmacist from selling any drug, medicine or appliance or other product used in the prevention or treatment of animal diseases so marked upon the prescription of a licensed veterinarian;

"(4) The owner of any animal or animals and the owner's full time, regular employees from caring for and treating any animals belonging to such owner;

"(5) Any nonlicensed veterinarian or other person in the federal service or employ from engaging in the performance of his official duties;

"(6) Any veterinarian residing in another state, lawfully qualified under the laws of that state, meeting licensed veterinarians of this state in consultation;

"(7) Any veterinarian residing near the border of a neighboring state and authorized under the laws of that state to practice veterinary medicine in that state whose practice extends into the limits of this state, from practicing veterinary medicine in this state, but such practitioner shall not open any office or appoint any place to meet clients or prospective clients within the limits of this state."

These exceptions, we believe, are clear, unambiguous and self-explanatory, and therefore need no discussion herein.

Section 340.180 provides that any person violating any of the provisions of Chapter 340 shall upon conviction be deemed guilty of a misdemeanor. Section 340.170 provides that the

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Attorney General or any of the several county or circuit attorneys are hereby empowered to sue in the name of the State of Missouri to abate the unauthorized or illegal practice of veterinary medicine. Said section further provides that the Missouri Veterinary Board may also sue in the name of the board to abate such unauthorized or illegal practice. We are unable to find any provision which would authorize the State Veterinary Board or state veterinarian to prohibit an unlicensed person from treating animals in an unauthorized or illegal manner by order. However, the provisions of Section 340.170, authorizing suit either by the Attorney General, county prosecuting attorney, or the State Veterinary Board, are amply authoritative to prohibit the unauthorized practice.

In view of the aforementioned provisions it would appear to be quite clear that a proper proceeding might be instituted to prohibit a person from practicing veterinary medicine without a license as defined in Chapter 340, if such acts do not fall within the exceptions noted in Section 340.020, supra.

CONCLUSION

Therefore, it is the opinion of this office that the State Veterinary Board may, by proper proceeding, abate the practice of veterinary medicine by a person not properly licensed under the provisions of Chapter 340, RSMo, 1949.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Donal D. Guffey.

Yours very truly,

John M. Dalton
Attorney General

DDG/vtl