

MISSOURI VETERINARY BOARD: Missouri Veterinary Board does not have
ADMINISTRATIVE AGENCIES: the power or authority to hire an attorney.
INVESTIGATORS: All investigations on behalf of said Board
must be conducted by the Board itself or
any of the members thereof whom the Board
may authorize, and said Board does not have
the power or authority to hire an investiga-
tor.



December 4, 1957

Dr. L. A. Rosner
Chairman Pro Tem
The Missouri Veterinary Board
P. O. Box 630
Jefferson City, Missouri

Dear Dr. Rosner:

This is in acknowledgement of your opinion request to this office dated October 8, 1957, and reads as follows:

"1. Is the Board empowered under the law to employ an attorney to advise with it and to remunerate him on a reasonable basis? If so, is such attorney an employee of the state although he is only reimbursed for services performed?

"2. Is the Board empowered to employ an investigator and to remunerate him for his reasonable services? If so, is such investigator an employee of the state although he will only be reimbursed for his actual services performed?"

With regard to your first inquiry as to hiring of an attorney by the board, this office cannot find a provision in the law creating and governing the Veterinary Board, which law is Chapter 340, RSMo 1949 and Cum. Supp. 1955, which specifically gives to the Veterinary Board the power and authority to hire an attorney to assist the board in the performance of its duties. In instances where the Legislature has deemed it advisable that a state board be given the power to hire an attorney, the Legislature has done so by enacting into the law, creating and governing that board a specific provision giving to that board the power to hire an attorney. Such is the situation with relation to the Board of Accounting, Section

Dr. L. A. Rosner

326.180, RSMo 1949; Board of Architects and Professional Engineers, Section 327.180, RSMo 1949; Board of Dentistry, Section 332.310 and the Board of Pharmacy, Section 338.140.

Inasmuch as the Legislature has not enacted a provision specifically giving to the Veterinary Board the power and authority to hire an attorney as the Legislature has done with respect to other state boards, it is the opinion of this office that The State Veterinary Board does not have the power or authority to hire an attorney to assist said board in the performance of its duties.

The said board can, however, obtain legal counsel by making the request of the Attorney General provided for in Section 27.020, RSMo 1949. Paragraph 2 of Section 27.020, supra, reads as follows:

"2. The attorney general may, at the request of any officer, department, board, bureau, commission or agency of the state, assign assistant attorneys general to perform the duties prescribed by law before or upon behalf of such officer, department, board, bureau, commission or agency and may upon request as aforesaid, from time to time reassign such assistants.

With regard to the second inquiry as to the hiring of an investigator by the board, Section 340.140, Cum. Supp. 1955, provides in part as follows:

"4. The board, and any of its members it may authorize, shall have power to conduct investigations * * *."

This office cannot find a provision in the law creating and governing the Veterinary Board which specifically gives to the Board the power and authority to hire an investigator. Instead, by paragraph 4, Section 340.140, supra, the Legislature has prescribed that investigations on behalf of the Veterinary Board shall be conducted either by the Board itself or by any of the members of the Board whom the Board shall authorize.

Inasmuch as the Legislature has said who may conduct investigations on behalf of the Veterinary Board and has not

Dr. L. A. Rosner

specifically authorized the Board to hire an investigator, it is the opinion of this office that the Veterinary Board does not have the authority to hire an investigator.

CONCLUSION

It is the opinion of this office that the Missouri Veterinary Board does not have the power or authority to hire an attorney to assist said Board in the carrying out of its duties.

It is also the opinion of this office that the Missouri Veterinary Board does not have the power and authority to hire an investigator to assist the Board in conducting investigations, but that all investigations on behalf of said Board must be conducted either by the Board itself or by any member of the Board whom the Board may authorize.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard W. Dahms.

Yours very truly,

John M. Dalton
Attorney General

RWD/ba/bi