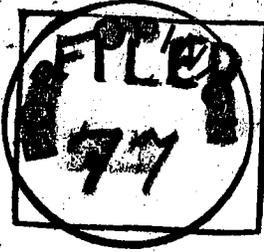


VETERINARIANS:
LICENSE:

An applicant for a nongraduate license under Section 340.040, Missouri Revised Statutes Cumulative Supplement, 1953, cannot be refused a license solely by reason of having been convicted.



October 13, 1954

Missouri Veterinary Board
P.O. Box 630
Jefferson City, Missouri

Attention: *Dr.* L. A. Rosner, Chairman

Gentlemen:

This will acknowledge receipt of your recent request for an opinion. Restating your request for sake of brevity, you inquire if a person may obtain a nongraduate license provided for under Section 340.040, Missouri Revised Statutes Cumulative Supplement 1953, if said person has been convicted prior to filing his application for said license.

Section 340.040, supra, reads:

"Any person who for each year during the past twenty years has made the greatest percentage of his income from the treatment of animals and who has resided in the same town or community during this time shall be issued a nongraduate license upon filing proof of these qualifications with the board. This license will allow the holder to continue the treatment of animals as long as he does not represent himself to the public as a practitioner of veterinary medicine by advertisement, the use of any title or abbreviation with his name or otherwise. Any person receiving a license under this section shall be subject to the other provisions of this chapter."

Nothing in the foregoing would disqualify any applicant from receiving a nongraduate license simply

Missouri Veterinary Board
Attention: Dr. L.A. Rosner:

because he may have been convicted. However, said statute concludes that any person receiving a license under said section shall be subject to the other provisions of said chapter. We construe that to mean merely that anyone licensed under Section 340.040, Missouri Revised Statutes Cumulative Supplement, 1953, must so conduct himself thereafter to conform to all other provisions and requirements in Chapter 340, Missouri Revised Statutes Cumulative Supplement, 1953, that do not in any manner conflict with the provisions of Section 340.040, supra. In other words the qualifications for obtaining a nongraduate license are found in Section 340.040, supra. Furthermore, said statute refers to persons receiving a license thereunder who shall be subject to other provisions of said chapter, that is, the other provisions of said chapter that only apply to one therefore licensed and not merely an applicant for a nongraduate license.

The only specific mention of a conviction found in Chapter 340, supra, is in Section 340.090, Missouri Revised Statutes Cumulative Supplement, 1953, which reads:

"1. The board may suspend or revoke the license of any person to practice veterinary medicine for any of the following causes:

"(1) * * * (2) * * * (3) * * *

"(4) For the conviction of any felony or crime involving moral turpitude, or for habitual drunkenness or the use of narcotics while in the performance of his duties; * * *."

Such restriction only relates to the power of said Missouri Veterinary Board to suspend or revoke a license already issued to a person to practice veterinary medicine, however the same provisions in said statute apply to one holding a nongraduate license.

Furthermore, there are several established rules of statutory construction, if applied to the instant request will clearly indicate that the legislative intent in enacting Chapter 340, supra, was not to include as one of the qualifications for obtaining a nongraduate license, that such applicant shall not have been convicted.

Missouri Veterinary Board
Attention: Dr. L. A. Rosner:

One well established rule of construction is that statutes that impose licenses are to be construed liberally against the individual and strictly against the state. State v. Hatfield, 73 Mo. App. 506; Section 392, page 937, Volume 82 Corpus Juris Secundum; Crawford on Statutory Construction, Section 357, page 735. Furthermore, it is well established that such boards or officers authorized to determine qualifications and issue or refuse licenses have no powers or duties other than those created by statute. Sections 32 and 437, Page 623 and page 646, respectively, Volume 53 Corpus Juris Secundum.

We are not unmindful of the rule that certain officers have implied authority to carry out that power expressly granted, however, such implied authority cannot go beyond that expressly granted in the statute.

We believe the legislative intent in enacting Chapter 340, Missouri Revised Statutes Cumulative Supplement, 1953, and especially Section 340.040 thereof, was that an applicant for a nongraduate license in order to obtain such a license need only to meet the requirements as contained in that particular statute.

CONCLUSION

Therefore, it is the opinion of this department that an applicant for a nongraduate license under Section 340.040, Missouri Revised Statutes Cumulative Supplement, 1953, cannot be refused a license solely by reason of having been convicted.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Aubrey R. Hammett, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

ARH:vlw:irk