

HEALTH: Physicians, osteopaths, veterinarians and hospitals must secure state license to engage in occupations set out in Section 9834, R. S. Mo. 1939.

April 22, 1943.



James Stewart, M. D.
State Health Commissioner
Jefferson City, Missouri

Dear Dr. Stewart:

The Attorney-General wishes to acknowledge receipt of your letter of April 15, 1943, requesting an opinion of this Department. Your letter of request is as follows:

"Will you please advise me whether or not Section 9834, Revised Statutes 1939, requires the State Board of Health to license physicians, osteopaths, veterinarians, and hospitals under the State Narcotic Act."

Although your inquiry above does not so state, we must assume for the purposes of this opinion that the license mentioned in your request would be a license to permit the persons named therein to transact the several types of occupations set out in Section 9834, R. S. Mo. 1939. Proceeding on such premise, the only question involved is whether physicians, osteopaths, veterinarians and hospitals are subject to the provisions of Section 9834, supra, if they wish to engage in any of the activities or occupations set out in such section of the statutes.

Section 9834, R. S. Mo. 1939, mentioned in your request, provides as follows:

"No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the State Board of Health."

It will be noted from a study of the statute that it deals with the production or manufacture of narcotics by any "person" and also provides that a wholesaler shall not be permitted to supply such narcotics without a license. This statute does not provide that it is necessary that a license be secured before a person may possess or have in his possession, certain narcotics, but only prescribes for a license for any person to "manufacture, compound, mix, cultivate, grow or by any other process produce or prepare narcotic drugs." It is plainly evident that if an individual, association or corporation intends to engage in any of the activities mentioned in the statute under consideration, such person, association or corporation is required to secure a license from the State for that specific purpose. Consequently, the only remaining consideration is whether physicians, osteopaths, veterinarians and hospitals are included in the category of "person," as such term is used in this section of the statute.

Section 9832, R. S. Mo. 1939, is entitled "Definitions" and defines certain terms used in Article 6, Chapter 57, in which article and chapter we find Section 9834, supra. The first term defined is "person," and such definition prescribes the following:

"'Person' includes any corporation, association, copartnership, or one or more individuals."

By applying the above definition to the particular occupations specified in your request for an opinion, we believe that all such occupations will come under the term "person." Therefore, if a physician, osteopath, veterinarian or hospital wishes to engage in any of the activities set out in Section 9834, R. S. Mo. 1939, to-wit, manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, or supply such as a wholesaler, it is first incumbent upon them to secure a license so to do from the State of Missouri.

Conclusion

It is, therefore, the opinion of this Department that if a physician, osteopath, veterinarian or hospital desires to

James Stewart, M. D.

-3-

April 22, 1943

engage in any of the activities set out in Section 9834, R. S. No. 1939, it is necessary that a license so to do be secured by them.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG