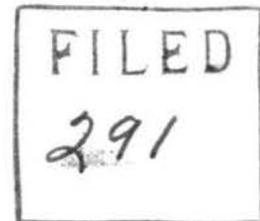


December 21, 1972

OPINION LETTER NO. 291  
Answer by letter-Wieler

Honorable Thomas D. Graham  
State Representative  
312 East Capitol Avenue  
Jefferson City, Missouri 65101



Dear Representative Graham:

This is in response to your request for an opinion as to the legality of a not-for-profit corporation establishing and running a veterinary clinic or hospital to be used by the general public and charging fees for veterinary services. In your request, you indicate that the S.P.C.A. of Missouri, Inc., a general not-for-profit corporation in this state, has announced its intention to establish a clinic and shelter in St. Louis County, Missouri, with a veterinarian on duty twenty-four hours a day.

The S.P.C.A. of Missouri, Inc., has been incorporated in this state as a general not-for-profit corporation under the provisions of Chapter 355, RSMo. Its announced purpose as contained in the articles of incorporation is as follows:

"5. The Purposes of S.P.C.A. of Missouri, Inc. are to provide effective means for the prevention of cruelty to children and to animals in the State of Missouri and elsewhere; to promote the welfare of children and animals by any available legal means and methods; to aid in the alleviation of distress and suffering of children and animals; to conduct and participate in educational programs calculated to promote the foregoing Purposes; to aid in the enforcement of all laws which are or may be hereafter enacted for the prevention of cruelty to living creatures; to conduct and operate shelters, hospitals and clinics for

Honorable Thomas D. Graham

animals; and to engage in any and all activities in furtherance of the foregoing activities, including, but not by way of limitation, to encourage, advise and assist other persons and associations throughout the State of Missouri in creating organizations dedicated [sic] to the above enumerated Purposes of S.P.C.A. of Missouri, Inc."

The question raised in your opinion request deals with the provisions of Section 340.140, sub. 4, RSMo 1969, and its application to the announced intention of the S.P.C.A. of Missouri, Inc. This section provides that the employment of a veterinarian by a not-for-profit corporation for the purpose of providing or furnishing to the public of those services constituting the practice of veterinary medicine, whether such services are provided with or without charge, is not to be considered the illegal or unauthorized practice of veterinary medicine. However, a proviso indicates that this is not to be construed to mean that a charitable, or not-for-profit corporation shall hold itself out to the public as being engaged in the practice of veterinary medicine.

The statute by its very terms does not seek to prohibit a not-for-profit corporation from employing a duly licensed veterinarian to practice veterinary medicine. In our opinion, the furnishing of shelter and veterinarian care to animals by a not-for-profit corporation in conjunction with an overall purpose of promoting animal welfare and alleviating animal distress does not constitute the practice of veterinary medicine by that corporation. This is in keeping with the ruling in *State ex inf. Sager v. Lewin*, 106 S.W. 581 (St.L.Ct.App. 1907), in which it was held that the furnishing of medical treatment to persons by a corporation did not constitute the illegal practice of medicine when the medical and surgical services were performed by physicians under contract with the corporation.

Therefore, in the absence of any facts which would show that the S.P.C.A. of Missouri, Inc., was incorporated for the purpose of practicing veterinary medicine or intends to hold itself out to the public as being engaged in the practice of veterinary medicine, we are of the opinion that the establishment of a veterinary clinic and shelter by the S.P.C.A. of Missouri, Inc., with a veterinarian on duty twenty-four hours a day, would not constitute violation of Missouri law.

Yours very truly,

JOHN C. DANFORTH  
Attorney General