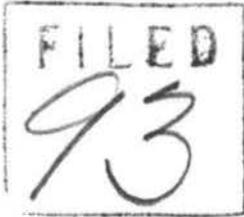


LICENSES: Construction of Section 338.045, RSMo. Cum. Supp. 1955.  
PHARMACISTS:



June 12, 1957

Honorable Thomas A. Walsh  
Member, Missouri House of Representatives  
Jefferson City, Missouri

Dear Mr. Walsh:

This will acknowledge receipt of your request which reads:

"Will you kindly render your official opinion on the right of a person to take another examination for a pharmacist's license in this state who failed to make a passing grade when he took the examination in 1937.

"This particular individual has been managing a drug store and compounding prescriptions in this state for more than thirty years prior to the effective date of Section 338.045, Cum. Supp. 1955."

A primary rule of statutory construction is to ascertain and give effect to the legislative intent and if possible such statutory intent should be determined from words used and put upon such language its plain and rational meaning and promote its objects. State ex inf. Dalton vs. Miles Laboratories, 282 S.W.(2d) 564; A. P. Green Fire Brick Co. vs. State Tax Commission of Mo. 277 S.W.(2d) 544.

Section 338.045, RSMo Cum. Supp. 1955, reads:

"Any person who is at least fifty-one years of age and who has resided in this state for at least thirty years before the effective date of this section shall, on compliance with this section, be given an examination by the board of pharmacy upon presentation of evidence establishing that he has been engaged in the management of a drug store or pharmacy and in the compounding of prescriptions for at least thirty years and upon successful completion of such examination such person shall be granted

Honorable Thomas A. Walsh

a license. Application for such examination shall be made on forms prescribed by the board and shall be accompanied by the fee required by section 338.070. Any person so licensed shall be entitled to all the rights and subject to all the duties prescribed by this chapter for applicants qualifying under sections 338.020 and 338.030."

It is quite apparent that the only purpose the Legislature had in enacting the foregoing statute was to make an exception as to qualifications of such person mentioned therein, for being licensed by the Missouri State Board of Pharmacy.

The fact that this person failed to pass the examination given by the Missouri State Board of Pharmacy in 1937, in the absence of any statute to the contrary, does not prevent his taking another examination.

In view of said statute, if the party referred to in your request can meet the requirements mentioned in said statute, he is entitled to take an examination and if he satisfactorily passes said examination the Board has no alternative but to issue him a pharmacy license.

The specific qualifications he must possess are as follows: He must present substantial evidence to the Missouri State Board of Pharmacy that (1) he must be 51 years of age; (2) he must have resided in this state at least thirty years prior to the effective date of Section 338.045, RSMo Cum. Supp. 1955; (3) He must establish to the satisfaction of the Missouri State Board of Pharmacy that he has been engaged in the management of a drug store or pharmacy and in the compounding of prescriptions for at least 30 years.

#### CONCLUSION

Therefore, it is the opinion of this Department that any individual who can meet the foregoing qualifications is entitled to take an examination for a pharmacist's license and if he successfully completes the examination, he is entitled to be licensed as a pharmacist in the State of Missouri.

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:mw