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OFFICE OF THE ATTORNEY GENERAL



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Honorable Ray A. Ashwander
Executive Secretary
Alabama State Board of
Veterinary Medical Examiners
P. O. Box 1767
Decatur, Alabama 35602

Board of Veterinary Medical
Examiners - Licenses and
Permits - Citizenship

Discussion of citizenship
requirements for resident
aliens who desire to be
licensed by the Board of
Veterinary Medical Examiners.

Dear Dr. Ashwander:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

Can the State Board of Veterinary
Medical Examiners allow foreign
veterinary graduates to take the
State Board written and/or oral
examination prior to their attaining
citizenship?

FACTS, LAW AND ANALYSIS

Section 34-29-91 provides:

"A person who is a graduate of a college of veterinary medicine not accredited by the American Veterinary Medical Association shall be eligible to take the regularly scheduled licensing examination given by the board upon furnishing the following:

"(1) The certificate of the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates (ECFVG);

"(2) A certificate evidencing the completion of a one-year internship as required by the ECFVG in a veterinary hospital or clinic approved by the Alabama state board of veterinary medicine. This internship can be completed in more than one hospital or clinic; however, a minimum of three months shall be spent in any one place and the intern must receive a variety of veterinary experience. This internship may commence prior to or following the national and state examinations and all must be completed within an 18-month period. The sponsoring practitioner of the internship shall give a complete written report to the board at the completion of each three months which shall include a performance evaluation of the intern. The board shall insure that the internship was satisfactorily completed by the applicant prior to issuance of a state license.

"The ECFVG certificate is in addition to all other requirements expected

for licensing of veterinarians in
Alabama; and

"(3) Proof of his citizenship of the
United States and of good moral
character. (Acts 1986, No. 86-500,
p. 956, §32)."

The statute is very clear that one of the qualifications
for taking the regularly scheduled licensing examination
given by the board is United States Citizenship. However, we
note that as long ago as 1873 the U.S. Supreme Court held
that the practice of a profession (law) is not dependent upon
having U.S. Citizenship. Bradwell v. State, 83 U.S. 130, 16
Wall. 130, 21 L.Ed.2d 442. See also In Re Griffiths, 413 U.S.
717, 93 S.Ct. 2851, 37 L.Ed.2d 910 (1973).

This has been extended to dentistry, Szeto v. Louisiana
State Board of Dentistry, 508 F.Supp. 268 (1981) and Examining
Board of Engineers, Architects and Surveyors v. Flores de
Otero and Norgveiro, 426 U.S. 572, 49 L.Ed.2d 65 (1976), 96
S.Ct. 2264.

In the above-cited cases, the restriction in question
has been held to violate the equal protection clause of the
Fourteenth Amendment, absent some showing of a compelling
interest. Police officers and public employment are two
areas where a citizenship restriction has been upheld.

The state law in effect at this time provides that only
citizens of the United States shall be eligible to take the
regularly scheduled licensing examination given by the
Alabama Board of Veterinary Medical Examiners. A federal
court could hold that examination under §§ 34-29-91, et
seq., Code of Alabama 1975, should not be withheld from a
foreign veterinary graduate. Thus, the question of whether
or not an examination should be administered to a foreign
veterinary graduate is a decision the board must make in
light of the possibility that a refusal could result in
litigation.

CONCLUSION

A person who is a permanent resident, alien status,
eligible for citizenship who otherwise qualifies for the

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license to practice veterinary medicine, is not qualified to receive a license to practice veterinary medicine in Alabama because the law has a citizenship requirement. We note, however, the strong possibility exists that a federal court would hold that a license must be issued to a legal resident alien who is otherwise qualified to practice veterinary medicine. Thus, the Board may decide to issue the individual a license based on rulings in federal court involving this question in other professions.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact Gregory O. Griffin, Sr., of my staff.

Sincerely,

JEFF SESSIONS
ATTORNEY GENERAL

By:



JAMES R. SOLOMON, JR.
CHIEF, OPINIONS DIVISION

JS/GG/cr

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