

## OPINION 99

In case of ambiguity in statutes, there are certain rules of construction to which a court resorts in arriving at the intention of the legislature, but such rules have no application to a statute that is free from ambiguity.

Tucker v. Muesing (1942), 219 Ind. 527, 39 N. E. (2d) 738;

Leach v. City of Evansville (1937), 211 Ind. 444, 7 N. E. (2d) 207.

Where the language of a statute is clear and plain, the courts have no power to resort to construction for the purpose of limiting or extending its operation.

Taelman v. Board of Finance (1937), 212 Ind. 26, 6 N. E. (2d) 557.

According to the plain words of the statutes, and the rule of your board, it is my opinion that the applicant to whom you refer would not be eligible to take the examination for a registered pharmacist license at the present time without completing a four year course of instruction.

---

### OFFICIAL OPINION NO. 99

October 29, 1953.

Mr. Wilfrid J. Ullrich, Secretary,  
Indiana Board of Pharmacy,  
327 State House,  
Indianapolis, Indiana.

Dear Mr. Ullrich:

I have your letter requesting my opinion which reads as follows:

“The Indiana Board of Pharmacy hereby requests an official opinion on the Statutes governing reciprocity:

“Sec. 3, Acts 1899 provides:

“\* \* \* Said board may, in its discretion, grant and issue a license as registered pharma-

cist or as registered assistant pharmacist without examination, to any person who shall produce to said board a certificate of registration of like tenor from another state which requires a degree of competency and experience equal to that required of applicants in this state, subject to the conditions of this act. (As amended by Acts 1907, p. 317; Acts 1913, p. 296; Acts 1923, p. 101 and Acts 1929, p. 181; Burns' 1933, Sec. 63-1103).'

"The National Board of Pharmacy refused the official application for reciprocity to an Illinois registrant on the basis that the Illinois registrant was licensed as an Assistant Pharmacist in Illinois in 1938. This licensure was abolished by Acts of the Illinois Legislature in 1947, at which time statutory provisions made by the Legislature whereby persons who were licensed as Assistant Pharmacists in Illinois were made eligible for examination and licensure as registered pharmacists in Illinois even though such persons were not graduates of approved colleges of Pharmacy. This statutory provision in Illinois did not apply in Indiana at that time.

"At the time of registration in Illinois on the basis of his Assistant registration, this Illinois registrant also held an Illinois apprentice license No. 16924 issued by the Illinois Board on September 5, 1922, which would allow him to take the Indiana Board of Pharmacy examination.

"The QUESTION: Would this Illinois registrant be deemed eligible for Indiana registration through reciprocity on the basis that he held qualifications for examination in Indiana at the time he took the examination in Illinois and became registered, despite the fact that he took the examination in Illinois under a special legislative act?"

I find upon examination that this office has rendered two official opinions to your board bearing upon this same subject matter, the same being on January 30, 1934 (1934 O. A. G.,

## OPINION 99

page 68) and on March 13, 1934 (1934 O. A. G., page 144). I suggest that you read these two opinions as it is impractical to quote the same at length in this opinion.

In the first opinion it is pointed out that the pharmacy board is given a discretion in the matter of issuing licenses without examination but that this discretion is limited to the question of whether or not you will grant a license without examination. In other words, the board may either grant the license without examination or it may refuse to grant such license without examination even though the applicant may be eligible in accordance with the requirements of the statute.

The second opinion, above referred to, is closely related to your present request as the facts therein were as follows:

“A resident of Indiana is not eligible to come before our board for examination as a registered pharmacist because he does not meet the Indiana requirements that he be a graduate of a recognized college of pharmacy.

“Colorado has never had this requirement. This person goes to Colorado, passes their examination and becomes a registered pharmacist in that state.

“Some time in 1934 a new law becomes effective in Colorado establishing requirements equal to those of Indiana.

“After that law goes into effect could our board issue this person a reciprocal license, although he would still be ineligible to take our examination?”

The present provisions of your law as quoted in your letter remains the same as it was at the time of that opinion. The then attorney general, after setting forth the above quoted facts and the applicable section of the law stated the following:

“Under the provisions of the Act of 1929, as given above, it is my opinion that the State Board of Pharmacy could issue a license to a person whose circumstances is similar as those set out in your above letter.

“The Act implies that the sister state shall have qualifications equal to ours at the time the applicant makes his application in this state. Therefore, regardless

1953 O. A. G.

when and under what conditions the applicant receives his license, if the state from which he comes has such laws at the present time as ours, he would be entitled to admission.”

Again referring to your letter I note that although the person referred to therein was licensed under a special Illinois statute he was eligible at that time to take the Indiana Board of Pharmacy examination.

Your letter does not so state, but I am assuming that the general requirements of the present Illinois Examination Law are comparable to the present requirements of our law. If this is so, and following the reasoning of the above quoted former opinion, it is my opinion that the Indiana Board of Pharmacy in its discretion could permit registration through reciprocity to the person described in your letter.

---

OFFICIAL OPINION NO. 100

November 3, 1953.

Hon. Harold W. Handley,  
Lieutenant Governor, State of Indiana,  
331 State House,  
Indianapolis, Indiana.

Dear Mr. Handley:

This is in reply to your letter of October 7, 1953 in which you inquire as to the following:

“Do tobacco growers come within the scope of horticulturists as used in Chapter 86 of the Acts of the General Assembly of 1953?”

The Acts of the General Assembly of 1953, Chapter 86 as found in Burns' Indiana Statutes Annotated (1950 Repl., 1953 Supp.), Section 15-219 provides in part as follows:

“Eleven members shall be nominated, one from each agricultural district as herein set forth, to be selected by the following agricultural interests within said district as represented by county organizations of breed-