

Veterinarians, impaired practitioners program

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Dr. Teresa Lightfoot
Chair, Board of Veterinary Medicine
11405 Starkey Road
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Dear Dr. Lightfoot

You ask whether the transfer of the impaired practitioners program to the Department of Health precludes the participation of impaired veterinarians in such a program.

The 1997 Legislature transferred administration of thirty-six medical professions from the Department of Business and Professional Regulation (DBPR) and the Agency for Health Care Administration to the Department of Health (DOH).[1] However, veterinarians remained under DBPR.

In effecting the transfer of administrative authority over the thirty-six medical professions to DOH, sections 455.26 and 455.261, Florida Statutes (1995), relating to the impaired practitioners program, were renumbered as sections 455.704 and 455.707, Florida Statutes. These provisions are now contained in Part II of Chapter 455, Florida Statutes, while Part I of Chapter 455 governs those professions regulated by DBPR. The question has been raised whether impaired veterinarians may still participate in the impaired practitioner program now contained in Part II, Chapter 455.

The courts of this state have made it clear that statutes are to be interpreted in a manner to effectuate the legislative intent.[2] Such intent is to be given effect even though it may contradict the strict letter of the statute.[3]

An examination of the legislative history surrounding the enactment of the 1997 legislation indicates that the transfer of the impaired practitioner program to the Department of Health was intended to effect a technical change rather than a substantive amendment. The staff analysis for the legislation states that the bill "renumbers and makes technical changes to s. 455.26, F.S." and "renumbers s. 455.261, F.S." [4] Nothing contained in the legislative history reveals an intent to remove veterinarians from coverage by the impaired practitioner program.

It would defy common sense to allow veterinarians with access to controlled substances to be deprived of the benefits of a program designed to provide treatment and rehabilitation to impaired practitioners. In light of the legislative history and the public's substantial interest in addressing the problem of impaired practitioners in professions with access to controlled substances, it appears that sections 455.704 and 455.707, Florida Statutes, should be construed to apply to veterinarians until such time that the Legislature has the opportunity to clarify its intent in this matter.

Sincerely,

Robert A. Butterworth
Attorney General

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[1] Chapter 97-261, Laws of Florida.

[2] See, e.g., *Florida Birth-Related Neurological Injury Compensation Association v. Florida Division of Administrative Hearings*, 686 So. 2d 1349 (Fla. 1997) (it is fundamental rule of statutory construction that legislative intent is the polestar by which a court must be guided in construing enactments of the Legislature).

[3] See, e.g., *State, Department of Revenue v. Kemper Investors Life Insurance Company*, 660 So. 2d 1124 (Fla. 1st DCA 1995) (legislative intent must be polestar which guides courts in construing statutes and this intent must be given effect even if it may contradict strict letter of statute); *Garner v. Ward*, 251 So. 2d 252, *conformed to*, 252 So. 2d 371 (Fla. 1971).

[4] Sections II.D.(93) and (94), Final Bill Research and Economic Impact Statement on HB 1925, House of Representatives Committee on Health Care Standards and Regulatory Reform, dated June 11, 1997.