

Opinion No. 60-228

December 22, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Troy Caviness Secretary Board of Pharmacy Loving, New Mexico

QUESTION

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Are the increased reinstatement fees provided for by Sec. 67-9-7, N.M.S.A., 1953 Comp. (PS), amended by the Laws of 1959, applicable for delinquencies occurring prior to the year of enactment?

CONCLUSION

Yes.

OPINION

{*652} **ANALYSIS**

The answer to your above inquiry requires an interpretation of Section 67-9-7, N.M.S.A., 1953 Comp. (PS), and particularly, the last sentence of that section which reads as follows:

"Anyone failing or refusing to pay said renewal fee within sixty days after the first day of May in each and every year shall have his certificate as a registered pharmacist revoked and shall not be reinstated except on a new application accompanied by a fee of ten dollars (\$ 10.00) for each delinquent year, payable to said board."

The only change provided by the 1959 amendment to this portion of the section is the requirement that \$ 10.00 be remitted for each delinquent year rather than a total fee of \$ 10.00 for reinstatement, the latter being the requirement prior to the amendment. It is our opinion that the statute as now phrased requires that the applicant seeking reinstatement must accompany his application with an amount totalling \$ 10.00 for each year of delinquency.

Section 18, Licenses, 53 C.J.S., provides that the State or city having full power to tax an occupation "may increase the rate on a particular class of persons engaged therein at any time before the expiration of the period for the enforcement of the tax . . . It has been held that the amount of the license fee may be increased pending an application for a license and the applicant be compelled to pay the increased fee." While the above statements are not directly in point on the question you have raised, it appears that they

set forth the general proposition of law involved. It is our opinion that the legislature has found it desirable to increase the fees for reinstatement and those now seeking such reinstatement must pay such increased fees for all years of delinquency irrespective of whether the same occurred prior to or after the enactment of the amendment.

By: Thomas O. Olson

First Assistant Attorney General