

BOARD OF HEALTH:) Director of medical licensure to be paid out
) of Department of Health fund.
APPROPRIATIONS:) Who to sign requisitions for disbursements from
) funds, discussed.

July 10, 1935.



Honorable Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Mr. Smith:

This is to acknowledge your letter dated July 1,
1935, as follows:

"In your opinion of December 3, 1934
to Dr. Emmett P. North, President
State Board of Health, on page 2, you
quote:

'* * * In order for these expendi-
tures to be a proper charge against
this fund it is necessary, first,
that the services must have been
rendered for the Board of Health,
(not the department of Health) * *'

"In your conclusions you state the
following:

'* * * When arriving at the purpose
for which the appropriation was
made, bear in mind that this amount
is a sacred fund derived from fees
for licensure and water analysis and
should be expended for only main-
taining the Board of Health, that is,
to pay the traveling expenses of the
members and all other expenses nec-
essary for the carrying out of the
purpose of the Board of Health con-
cerning their activities relative to
licensure and water analysis. * * *'

"The last Legislature appropriated under Section 22 of HB 536 to pay the salary of the Director of Licensure out of the Department of Health fund and not out of the Board of Health fund, the Department of Health fund being that part of the appropriation which comes out of the general revenue of the state."

"I am in receipt of a voucher signed by Dr. Bourke, President of the State Board of Health asking that the salary of the Director of Medical Licensure be paid out of the Board of Health fund and not out of the Department of Health fund as shown by the appropriation."

"The Director of Medical Licensure performs no services in the Department of Health as his work is confined to the Board of Health."

"With the above explanation, I would like an opinion from your department on the following questions:

"First - Does the President of the State Board of Health have any authority to make requisition on appropriation out of Revenue fund or the Department of Health fund to pay employees working only for the Board of Health fund?

"Second - Who is authorized to sign request vouchers for salary payments out of the Board of Health fund and who should sign request payments out of Department of Health funds, the latter being the Commissioner's office located here in Jefferson City."

July 10, 1935.

You state that on December 3, 1934, this Department rendered an opinion to Dr. Emmett P. North, President of the State Board of Health, and quoted certain parts of same. However, we invite your attention to the fact that said communication to Dr. North was not an official opinion but was a synopsis of an inquiry concerning the status of funds and disbursements therefrom. However, the portions quoted in your letter properly declare the law and the statutes of the Board of Health fund. But, as such was not an official opinion, we will pay no further attention to same.

I.

DIRECTOR OF MEDICAL LICENSURE TO BE PAID
OUT OF THE DEPARTMENT OF HEALTH FUND.

On May 6, 1935, this Department rendered you an opinion, and we quote from said opinion, wherein, in part, we said the following:

"However, we invite your attention to a perfected bill now before the 58th General Assembly, namely, House Bill No. 536, page 18, which provides in part as follows:

"STATE BOARD OF HEALTH-
DEPARTMENT OF HEALTH-

SECTION 22. There is hereby appropriated out of the state treasury, chargeable to the State revenue fund, the sum of Two Hundred Fifty Two Thousand dollars (\$252,000) to be expended for the following purposes, in the amounts hereinafter stated:

A. Personal Service:

Health Commissioner's Office:

July 10, 1935.

The salary of the secretary,
state health commissioner,
secretary to the state health
commissioner, director of
licensure, supply clerk, multi-
graph operator and janitor."

"If the above appropriation Act is
enacted and approved as above written,
it would be our opinion that the
salary to be paid to the Director of
Medical Licensure would be paid out
of the above fund."

On the 10th day of June, 1935, the Governor approved House Bill No. 536. In its final form, however, only \$207,000 was provided for in lieu of \$252,000. No change was made as to the payment out of said fund for the salary of the director of licensure.

We therefore conclude that, as the Appropriation Act, to-wit, House Bill No. 536, Section 22, has been approved and that such makes provision to pay the salary of the director of licensure, said director of licensure should be paid out of the Department of Health fund, or House Bill No. 536, Section 22, supra; and such is our opinion.

II.

DOES THE PRESIDENT OF THE STATE BOARD
OF HEALTH HAVE ANY AUTHORITY TO MAKE
REQUISITION ON APPROPRIATION OUT OF
REVENUE FUND OR THE DEPARTMENT OF HEALTH
FUND TO PAY EMPLOYEES WORKING ONLY FOR
THE BOARD OF HEALTH FUND?

Your question is ambiguous but we assume that you allude to the medical licensure director, and having ruled that the medical licensure director should be paid out of the Department of Health fund, the answer to this question may be dispensed with. However, we are attaching herewith opinion rendered by this Department on October 19, 1934, to Dr. Emmett P. North, President of the State Board of Health, which gives

the history concerning the duties and functions of the Commissioner of Health and the State Board of Health.

It is to be borne in mind that the Board of Health is charged with the responsibility of supervising and enforcing matters relating to public health. Since the creation of the State Board of Health in 1883, its duties have become many times enlarged. And today there is a Department of Health consisting of many divisions over which the Board of Health has authority. To illustrate: The Board of Health is responsible for all matters concerning public health, and in order to effectively carry on the functions and duties regarding same, a Department of Health was provided for and the Department of Health was further sub-divided into divisions, so that the Board of Health is responsible for the activities of the Department of Health and all its sub-divisions. In order for the Board of Health to perform the duties relating to public health, and have money to accomplish same, the Legislature has provided that all expenses concerning the Department of Health (or those doing the clerical work) should be paid from the general revenue.

We know of no reason why the Board of Health should have any employes which are to be paid out of the Board of Health fund, as all persons employed by them should have their salaries paid from the appropriation made to the Department of Health.

Referring to House Bill No. 536, Section 21, it is seen that "Personal Service," paragraph "A", provides the following:

"Compensation of members of the board
and consultant; salary of reporter,
notary and witness fees and costs of
investigations and hearings, . . . \$20,000."

And when House Bill No. 306 becomes effective, August 27, 1935, each member of the Board will receive \$10.00 per diem compensation, when engaged in their duties for the Board.

The Board of Health fund is created by virtue of Section 9119, R. S. Mo. 1929, and in part provides as follows:

"All fees so received from applicants for licenses shall be paid into the state treasury and shall be held by the state treasurer as a separate fund to be disbursed only in payment of expenses of maintaining said board of health, * * *."

"Maintaining said board of health" would include the per diem of members after August 27, 1935; also for paying of costs of investigations relative to unprofessional conduct of licensed physicians and surgeons etc.

III.

WHO IS AUTHORIZED TO SIGN REQUEST VOUCHERS FOR SALARY PAYMENTS OUT OF THE BOARD OF HEALTH FUND AND WHO SHOULD SIGN REQUEST PAYMENTS OUT OF DEPARTMENT OF HEALTH FUNDS, THE LATTER BEING THE COMMISSIONER'S OFFICE LOCATED IN JEFFERSON CITY.

All moneys to be paid out of the Board of Health fund must be signed by the president and the secretary of the State Board of Health. The Commissioner of Health is ex officio secretary. See opinion dated October 19, 1934, supra.

We invite your attention to this provision found in Section 9119, supra:

"The state auditor shall issue his warrant on the state treasurer for payment out of said fund on the certificate of the president and secretary of the state board of health."

Section 9020, Laws of Missouri, 1933, page 269, amended by House Bill No. 306, by the 58th General Assembly, provides as follows:

"* * * The president of the board shall certify the amount to the commissioner of health and the per diem, traveling and other expenses of members and on presentation of this certificate the auditor of state shall draw his warrant on the state treasurer for the amount."

It is seen that the Legislature intended that when moneys were withdrawn from the Board of Health fund that the president as well as the secretary (Commissioner of Health) should sign said requisition.

As to the Department of Health fund, we do not find any statute that provides who shall sign the requisitions. However, provision is made that the Board of Health shall have the power to make rules and regulations concerning health matters, and we suggest that the Board make known its wishes by adopting a by-law concerning the signing of requisitions for warrants. Until the Board of Health acts, we are of the opinion that all requisitions for moneys to be paid from the Department of Health fund should have the approval of the president of the Board of Health and the Commissioner of Health. We are of this opinion because the Board of Health is responsible for the expenditure of moneys appropriated to the Department of Health and, consequently, should approve all expenditures until it delegates that power to someone else, presumably the Commissioner of Health; the only exception to the above being as to the Water Analysis fund.

This provision found in Section 9032, R. S. Mo. 1929, concerning fees for the analysis of water, in part provides as follows:

"The fees collected by the state board of health under this article shall be turned over to the state treasurer, who shall place them in

July 10, 1935.

a special fund to be known as the state board of health water and sewage fund and as much as is necessary of this fund shall be used for maintaining the division of the state board of health to be known as the division of water and sewage and said fund is hereby appropriated for said purpose, and the state auditor shall draw his warrant for claims against this fund after such claims have been approved by the secretary of the state board of health: * * *

And it is our further opinion that on disbursements from the water analysis division fund, the requisition needs to have only the approval of the secretary of the State Board of Health (Commissioner of Health).

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General.

JLH:EG
Enc.