

OFFICERS:

Secretary of Optometry Board serves at pleasure
of Board.

11-22

#8545

11-22-33

November 22, 1933.



60

Mr. Charles C. Hayward
Member of Legislature
Jefferson City, Missouri

Dear Mr. Hayward:

In compliance with your oral request of this date that we render an opinion relative to the term of employment of the Secretary of the Optometry Board, it is our opinion that said secretary serves at the pleasure of the Board.

The facts as we understand them are: (1) That the present Secretary was requested by the President of the State Board of Optometry to resign and (2) his refusal to comply with said request. The questions being: (1) Must the secretary resign? and (2) upon his failure to do so what steps are necessary to remove him?

Section 13498 R. S. No. 1929, provides in part:

"The members of said board shall within thirty (30) days after appointment, and annually thereafter in the month of July, meet and organize by electing a president from among the members thereof, and a secretary who shall also be the treasurer of said board, who shall not be a member of said board, but who shall 'be a reputable practicing optometrist.' The said secretary and treasurer, before entering upon his duties, shall file a bond with the secretary of state in the penal sum of \$5,000.00 payable to the State of Missouri to insure the faithful discharge of his duties in said office."

And further,

"; and also shall adopt a seal; and the secretary shall have the care and custody thereof, and he shall keep the record of all the proceedings of said board, which shall be open at all times for public scrutiny etc."

Section 13500, R. S. No. 1929, provides, among other things, the following:

"The board shall hold meetings for the examination of applicants for registration and the transaction of such other business as shall pertain to its duties at least once in three months."

Thus, if the board meets for the purpose of employing a new secretary or to discharge the present secretary, it may do so. The secretary appointed by the State Board of Optometry serves at the pleasure of said board and may be removed by it when said board desires. Thus, if the secretary refuses to resign, further compensation to him should be disallowed; possession of the board's records and seal be taken from him; or court order of ouster obtained.

Even the members of the board are subject to removal by the Governor. We quote from Laws of Missouri, 1933, page 326, Section 1:

"The Governor shall have power and he is hereby authorized to remove from office, without assigning any other reason therefor, any appointive state official required by law to be appointed by the Governor, whenever in his opinion such removal is necessary for the betterment of the public service, but the Governor may, at his discretion, in any order of removal which he may make under authority of this act, assign additional and more specific reasons for such removal."

Section 2:

"All laws and parts of laws in conflict with the provisions of this act are hereby repealed insofar as such laws and parts of laws are so in conflict."

Trusting this answers your questions, and if we have not, kindly tell us and we shall further advise you in the premises.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

JLH:EG