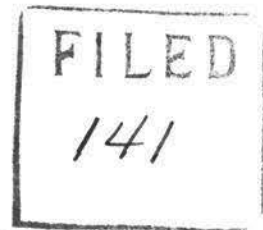


September 27, 1978

OPINION LETTER NO. 141
Answer by Letter - Covington

Dr. William R. Goodge, Secretary
Missouri State Anatomical Board
Department of Anatomy
University of Missouri Medical Center
Columbia, Missouri 65212



Dear Dr. Goodge:

This is in response to your request for an opinion on the question of whether the Missouri State Anatomical Board can transfer the 1978 balance of funds in its possession to the Department of Higher Education for deposit in the state treasury.

Attorney General's Opinion No. 10, April 7, 1977, concluded that the legislature, by providing for a Type II transfer in the Omnibus State Reorganization Act of 1974, intended to subject the fiscal operations of the Anatomical Board to supervision of one of the executive departments of state government, in this case the Coordinating Board for Higher Education through the Department of Higher Education. A copy of Opinion No. 10, April 7, 1977, is enclosed.

Section 33.080, RSMo 1969, provides:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any

law, shall, by the official authorized to receive same, and at stated intervals of not more than thirty days, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state) shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or any person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money received by the curators of the university of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations; gifts or grants from the federal government, private organizations and individuals; funds for or from student activities; farm or housing activities; and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same; and hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly."

Section 33.080 states that fees, funds and moneys from whatsoever source received shall be placed in the state treasury and that the unexpended balance remaining in all such funds at the end of the biennium shall be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer (with certain exceptions not applicable hereto).

Dr. William R. Goodge

It is our view that, in view of Section 33.080, RSMo 1969, the Type II transfer effected by the Omnibus State Reorganization Act and Opinion No. 10, 1977, any unexpended balances of funds of the Anatomical Board at the end of the biennium must be transferred to the Department of Higher Education for deposit in the state treasury.

Very truly yours,

JOHN ASHCROFT
Attorney General

Enclosure:
Op. No. 10, 4-7-77