

MISSOURI DENTAL BOARD: Present Members Remain in Office  
Until October 16, 1940.

June 15, 1937.

Senator Michael Kinney,  
Missouri Senate,  
Jefferson City, Missouri.



Dear Sir:

This department is in receipt of your request for an opinion as to the following:

"Will you kindly let me know whether or not under the new Dental Law a new Board does not have to be appointed."

Section 13557 R. S. No. 1929 by authority of which the present Dental Board was appointed, provided for a Board of five members to be appointed by the Governor for a term of five years. The appointments of the present members of the Board expire in 1940.

During the last session of the Legislature (1937) Section 13557 R. S. No. 1929 was repealed and a new section (13557) re-enacted in lieu thereof. Under the new section, a new system of appointments to the Dental Board is provided: beginning October 16, 1940, the Governor shall appoint one member for a term of one year, one member for a term of two years, one member for a term of three years, and one member for a term of five years. Thereafter, all members shall be appointed for a term of five years. It is apparent that the intention of the Legislature in enacting this modification of the former system of appointments was to effect a change in the personnel of the Board of only one member at a time rather than to require the appointment of an entirely new Board at the expiration of each five year period.

However, it will be noted that the Legislature expressly provided that the present members of the Board shall remain in office until the expiration of their respective terms, that is, until October 16, 1940, and that the new system shall not be inaugurated until that date. By reason of this proviso, therefore, there can be no question but that the present members of the Board retain their offices until October 16, 1940.

Nor can it be said that the repeal of Section 13557 R. S. No. 1929 automatically terminated the appointments of the present members of the Board for the reason that Section 13557

was re-enacted in the same section that repealed the former section. The fact that there are some modifications of the former section erected in the present section 13557 would not, as a matter of law, affect the continuation of the provisions of the former section where applicable. In the case of *State v. Ward* (Supreme Court of Missouri) 40 S. W. (2) 1074, the Court said:

"The point that the repeal by the Fifty-fifth General Assembly in 1929 of Section 5396, R. S. 1919, and the enactment in lieu thereof of a new section to be known as section 5396 (Laws 1929 p. 217 (now Rev. St. 1929 § 8246)) terminated the two year closed season voted by Harrison county in 1928, is without merit.

In *Brown v. Marshall*, 241 Mo. 707, 145 S. W. 810, loc. cit. 815, this court ruled: 'A subsequent act of the legislature repealing and re-enacting, at the same time, a pre-existing statute, is but a continuation of the latter, and the law dates from the passage of the first statute and not the latter. *State ex rel. v. Mason*, 153 Mo. 23, loc. cit. 58-59, 84 S. W. 524; *State ex rel. v. County Court*, 53 Mo. 126, loc. cit. 129-130; *Smith v. People*, 47 N. Y. 330.'

And this is true even though the new section 8246 of Rev. St. 1929 contained modifications of the repealed sections. *State v. Bradford*, 314 Mo. 684, 225 S. W. 496."

In view of the foregoing, therefore, it is the opinion of this department that the enacting by the Legislature of a new section of the law regulating Dentistry in Missouri (Section 13557) does not affect in any manner the status of the present members of the Dental Board appointed under Section 13557 R. S. No. 1929.

Respectfully submitted.

APPROVED:

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(Acting) Attorney General.