

STATE BOARD OF HEALTH: Relating to the changes made by the Legislature in 1933 concerning the State Board of Health and Health Commissioner ; the duties of the State Board of Health in relation to the Health Commissioner ; and changes relating to the by-laws, under the statutes governing the operation of the board.

May 3, 1934. 574

Dr. Emmett P. North
President
The State Board of Health of Mo.,
3511 Washington Avenue
Saint Louis, Missouri.



Dear Doctor North:

This department is in receipt of your letters and enclosures of March 17, 1934, and April 10, 1934, Your letter of March 17, is in part as follows:

"The State Board of Health of Missouri is desirous that you outline to them the changes made by the Legislature concerning the State Board of Health and the Health Commissioner, and kindly outline the duties of the State Board of Health in relation to the Health Commissioner."

Your letter of April 10, reads as follows:

"Supplementing my letter of March 17th I enclose a set of by-laws, rules and regulations for the guidance of the State Board of Health. Several members of the Board have asked me to request you to give us your opinion upon the propriety of these items in respect to their harmony with the statutes. If any of the items are in conflict with the laws may I request that you make such alterations as are necessary in order to remove such conflicts.

"When I receive your opinion on the approval and correctness of these items I will submit the entire set of items to a full meeting of the Board."

Your enclosures of April 10, 1934, are:

(1)

BY-LAWS, RULES AND REGULATIONS
OF THE
DEPARTMENT OF HEALTH
OF THE
STATE OF MISSOURI

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ADOPTED
BY THE
STATE BOARD OF HEALTH OF MISSOURI
_____ 1934.

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(2)

STATE BOARD OF HEALTH OF MISSOURI

- Emmett P. North, M. D., St. Louis - President
- Wm. T. Elam, M. D., St. Joseph - Vice President
- Peter T. Bohan, M. D., Kansas City - Member

- Timothy S. Bourke, M. D., Kansas City - Member
- Wm. A. Clark, M. D., Jefferson City - Member
- E. S. Smith, M. D., Kirksville, - Member
- E. T. McGaugh, M. D., Jefferson City - Member,
Secretary, and
Commissioner of Health.

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(3)

By Virtue of the authority vested in it by law the State Board of Health of Missouri has adopted the following By-Laws, rules and regulations for the government of the Department of Health of the state of Missouri effective on and after the _____ day of _____ 1934, and hereby revokes any by-laws, rules and regulations or parts thereof, adopted prior to this date in conflict herewith and hereby holds any authority delegated to anyone prior to this enactment void. The Board reserves the right to alter, amend or revoke any of these by-laws, rules and regulations, and to make additional ones from time to time as the good of the service may require.

By order of the State Board of Health of Missouri this _____ day of _____ 1934.

ATTEST:
E. T. McGaugh
Secretary.

Emmett P. North
President.

* * * * *

(4)

BY - LAWS

Section 1. State Board of Health.--The government of the Department of Health of the State of Missouri is vested in a board styled "The State Board of Health of Missouri" (hereinafter called the Board), consisting of seven members appointed by the Governor by and with the advice of the Senate.

2. Officers of the Board.--The officers of the Board shall be a president and a vice-president. The Commissioner of Health, ex officio by law, shall be secretary to the Board. He may or may not be a member of the Board.

3. Duties and powers of the Board.--The Board reserves unto itself all rights, powers, privileges and duties conferred by law except those herein specifically delegated, and unless so done now or hereafter shall be deemed unauthorized and illegal.

4. Duties of the President.--The president shall preside at all meetings of the Board. He shall be the executive officer of the Board and shall act for it when the Board is not in session. He is authorized to administer oaths.

5. Duties of the Vice President.--The vice president, in the absence of the president, shall perform the duties of the president.

6. Duties of the Secretary.--The secretary (Commissioner of Health) shall assume the rights, powers, privileges and duties conferred upon him by law and by the rules and regulations of the Board. He shall perform such duties as may be prescribed by the Board. He shall have supervision of the Central Bureau of Vital Statistics and shall act as State Registrar.

7. Meetings of the Board.--The meetings of the Board shall be in January and July of each year and at such other times as the Board shall deem expedient. The meeting in January shall be held in the City of Jefferson. The president shall call meetings of the Board when deemed expedient.

8. Quorum.--Four members shall constitute a quorum.

9. Order of Business.--The order of business at each regular meeting of the Board shall be as follows:

- (a) Open Session
 - 1. Administration of oaths
 - 2. Hearings

- (b) Executive Session
 - 1. Reading of minutes
 - 2. Report of the president
 - 3. Report of the vice president
 - 4. Report of the Secretary
 - 5. Report of members
 - 6. Unfinished business
 - 7. New business
 - 8. Adjournment

10. Salary and Expenses of Members.--"The members of the Board shall receive no compensation for their services but their traveling and other expenses while employed on the business of the Board shall be paid. The president of the Board shall certify the amount to the Commissioner of Health, and the traveling and other expenses of members, and on presentation of his certificate the Auditor of the State shall draw his warrant on the state treasurer for the amount." (Section 9020, Laws of Missouri, 1933, page 269.)

RULES AND REGULATIONS

- 1. The Board shall have general supervision over the registration of medicine, surgery and midwifery as provided by law.

- 2. The Board shall have general supervision over enforcement of the terms and provisions of the law relating to cosmetology, hairdressers and manicurists.

- 3. The Board shall have authority to take testimony in all matters relating to its duties and powers.

- 4. All divisions now established shall be continued under such rules and regulations herein or hereafter formulated by the Board. The Board shall provide for such clerks and other assistants as may be necessary

for the conduct of the central Bureau of Vital Statistics including the appointment of local registrars and all other divisions of the Department of Health now or hereinafter established, who shall serve during the pleasure of the Board and at such compensations as may be fixed by the Board.

5. The division of Child Hygiene is hereby re-established under the general supervision and direction of the Board as provided by law. The director in charge, or by whatever title he shall be hereafter designated, shall be responsible directly to the Board for his actions and conduct in office. He shall cooperate in all matters as to the conduct of his division with the Commissioner of Health.

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Laws of Missouri, 1933, pages 269-270 -

"HEALTH, PUBLIC, AND VITAL STATISTICS: Relating to State Board of Health and Appointment, Qualifications, Compensation and Duties of Commissioner of Health."

Section 1 repeals Sections 9020 and 9024 of Article I, Chapter 52 of R. S. Mo. 1929, and in lieu thereof enacted two new sections known as Sections 9020 and 9024, which read as follows:

"Section 9020:--

"The Commissioner of Health shall perform such duties as may be prescribed by the board and this article. The members of the board shall receive no compensation for their services, but their traveling and other expenses while employed on the business of the board shall be paid. The president of the board shall certify the amount to the Commissioner of Health, and the traveling and other expenses of members, and on presentation of his certificate the auditor of state shall draw his warrant on the state treasurer for the amount."

"Section 9024:--

"The Governor, by and with the advice and consent of the Senate shall appoint a Commissioner of Health, who shall hold his office for a term of four years, and who shall be a physician in good standing and of recognized professional and scientific knowledge and a graduate of a reputable medical school, and shall have been a resident of the State for at least five years next preceding his appointment, and in making such appointment there shall be no discrimination made against the different systems of medicine that are recognized as reputable by the laws of this State. The Commissioner of Health shall be subject to removal from office for cause by the Governor at his pleasure. The compensation of the Commissioner of Health shall be five thousand dollars (\$5000) per annum. He shall also receive traveling and other expenses necessarily incurred in the performance of his duties. The Commissioner of Health as hereby constituted shall assume all the rights, powers, privileges and duties heretofore conferred by law upon the Secretary of State Board of Health heretofore authorized by law, which office is hereby abolished. Where any law refers to the Secretary of the State Board of Health as heretofore constituted, same shall, after the passage of this Act, be construed as referring to and meaning the Commissioner of Health as hereby and herein constituted."

Whereas, under Section 9024, R. S. Mo. 1929, repealed, the Commissioner of Health was selected by the board, under the new Section 9024, supra, he is now appointed by "**** the Governor, by and with the advice and consent of the Senate, **** for a term of four years **** and is **** subject to removal from office for cause by the Governor at his pleasure. ****"

Whereas, under the new Section 9024, supra, "**** the Commissioner of Health **** assumes all the rights, powers, privileges and duties heretofore conferred by law upon the secretary of the State Board of Health heretofore authorized by law and which office (Section 9019 R. S. Mo. 1929 repealed) is now abolished ****, it is now **** the duty

(Section 9023, R. S. Mo. 1929) of the Board of Health to make an annual report through its secretary (Commissioner of Health) or otherwise in writing to the Governor of this State on or before the first day of January of each year, and such report shall include so much of the proceedings of the Board and such information concerning vital and mortuary statistics, such knowledge respecting diseases, and such instructions on the subject of hygiene, as may be thought useful by the board for dissemination among the people, with such suggestions as to legislative action as it may deem necessary."

Whereas, under Section 9024, R. S. Mo. 1929, repealed, it was the duty of the Commissioner of Health to enforce the rules and regulations of the board, and to submit an annual report with his recommendations, the same duty may now be required of him for as stated in Section 9020, supra, "the commissioner of health shall perform such duties as may be prescribed by the board and this article."

Laws of Missouri, 1933, pages 271 and 272 -

"HEALTH, PUBLIC, AND VITAL STATISTICS:
Relating to Deputy State Commissioners
of Health for Counties."

Section 1 repealed Section 9025, of Article I, Chapter 52 of R. S. Mo. 1929, and in lieu thereof enacted a new section known as Section 9025, which reads as follows:

"Section 9025:--

"At the first regular February term of the county court in each county of the State after this article becomes effective and at the regular February term of said county court every year thereafter, said court may appoint a reputable physician, as a Deputy State Commissioner of Health for a term of one year. In case of a vacancy in the office of

The Deputy State Commissioner of Health of the county, the county court may at its next regular term of court appoint a reputable physician for the unexpired term. But the power of deciding whether or not such a deputy state health commissioner will be appointed shall be vested in the county court. If a county court of any county decides to appoint a deputy health commissioner, as empowered in this act, it shall agree with said commissioner as to the compensation and expenses to be paid for such services which amount shall be paid out of the county treasury of the county."

Whereas, under Section 9035, R. S. Mo. 1929, repealed, the county court was given the power to appoint a reputable physician as deputy state commissioner of health at the regular February term of said county court every third year and for a term of three years; under the present section it has been changed to read "every year thereafter **** and for a term of one year ****."

Whereas, under Section 9035, R. S. Mo. 1929, repealed, if the county court failed to appoint a deputy state commissioner of health as above provided, the state board of health was given the power to appoint a reputable physician as deputy state commissioner of health for that county who was to serve until the county court of such county made such appointment; under the present section it has been changed to read that "**** the power of deciding whether or not such a deputy state health commissioner will be appointed shall be vested in the county court, ****" so that now the appointing of a deputy health commissioner rests exclusively (discretionary) with the county court.

Laws of Missouri, 1933, pages 270 and 271 -

"HEALTH, PUBLIC, AND VITAL STATISTICS:
Relating to Registration of Births and
Deaths."

Section 1 amends Section 9044, Article II, Chapter 52, R. S. Mo. 1929, entitled "Registration of Births and Deaths", "Burial Permits", by inserting between the word

"occurs" and the word "and" in line 10, the following words:

"Provided, no such removal permit shall be required when a dead body is removed for the purpose of preparing such body for burial, but no such body shall be interred, deposited in a vault or tomb, cremated or otherwise disposed of until a permit so to do has been properly issued by the local registrar of the registration district in which the death occurs."

We are of the opinion that all the sections of the by-laws, except Section 2, as set out in your enclosures of April 10, 1934, are in harmony with the present sections of the statutes. Section 2, of the by-laws dealing with officers of the Board reads as follows:

"Officers of the Board.--The officers of the Board shall be a president and a vice president. The Commissioner of Health, ex officio by law, shall be secretary to the Board. He may or may not be a member of the Board."

We are of the opinion that Section 2 should be changed to read as follows:

"Officers of the Board.--The officers of the Board shall be a president and a vice president. The Commissioner of Health, by law, shall be a secretary to the Board, and is also a member of the Board."

CONCLUSION.

In view of Section 9013, R. S. No. 1929, providing that the board consist of seven members; and Section 9019, R. S. No. 1929, providing that the Secretary of the State Board of Health be a member of the Board; and in view of

Section 9024, Laws of Missouri, 1933, providing that the Commissioner of Health assume all rights, powers, privileges and duties heretofore conferred by law upon the secretary of the State Board of Health, we are of the opinion that the Commissioner of Health is secretary to the board and is also a member of the board.

Trusting that this is the information you desire and if we may be of further service, please let us know.

Respectfully submitted,

JAMES L. HORNBOSTEL
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

MW/JLH/afj