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## ARIZONA ATTORNEY GENERAL

May 25, 1937.

Dr. F. M. Pilcher, Secretary,  
Arizona State Board of Optometry  
8 West Adams Street  
Phoenix, Arizona

Dear Dr. Pilcher:

Your letter of the 20th inst., in which you request of this office our opinion on the following questions, has been received.

1. Can the State Board members hold a regular state board meeting and act on any state board matters without putting in a claim for compensation - in other words would it be legal?
2. Three applicants graduating from Optometry schools this year requested a state board examination in June of this year; if they agreed in writing to pay the expenses of this two day board meeting could they be assessed so much each to cover the cost of the meeting and could a certified check be demanded from them before this meeting was called and should one of those requesting the meeting drop out after sending in his check to cover his share would the burden fall on the board members or the other two applicants? Could those desiring to take the board be requested to put up the full \$112.00 which would be necessary to hold a two day three man board meeting?

In answer to your first question I wish to state that section 2572, R.C.A. 1928, provides in part as follows:

"The members of the board shall receive ten dollars a day each, for each day actually spent in the performance of their duties, and mileage."

The above quoted portion of the section provides that each member shall receive his per diem and mileage. However, if said member, or all three members, of your board do not wish to present claim for both mileage and per diem, it is not mandatory that they do so. They can, therefore, act without compensation and still any meeting which you might hold would be legal.

Arizona State Board of Optometry -2-

In answer to your second question, permit me to call your attention to a portion of section 2573, R.C.A. 1928, which reads as follows:

"A person over the age of twenty-one years, and of good moral character, desiring to engage in the practice of optometry in the state, may file his verified application, with a fee of twenty-five dollars, for an examination with the secretary of the board at least two weeks prior to the date at which an examination is to be held. \* \* \* \* \*

"The board shall examine the applicants only in the subjects designated in the preceding section, and if the applicant obtain a grade of not less than seventy-five per cent in each subject the board shall issue to him a certificate of registration upon the further payment of a fee of five dollars."

The fee which the law authorizes you to charge an applicant precedent to his taking an examination in optometry is \$25.00. If he passes you are authorized to charge an additional fee of \$5.00 for the certificate. I do not find any authority for you to charge any more even though the board may at one time or another see fit to call a special examination. There is no basis in the law whereby any additional fee could be charged even though the applicants requested the examination and agreed to pay the additional fee. It is our opinion that if such agreement were made it would be simply a gratuitous suggestion on the part of the applicant.

Very truly yours,

JOE CONWAY  
Attorney General

ALBERT M. GARCIA  
Assistant Attorney General

E. G. FRAZIER,  
Special Assistant  
Attorney General