

Handwritten notes: "Yes" and "7/12/51" with a checkmark above.

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ARIZONA ATTORNEY GENERAL

July 5, 1951
Op. No. 51-179

Dr. Maude Colglazier
Secretary-Treasurer, Arizona
Naturopathic Board of Examiners
356 North 2nd Avenue
Phoenix, Arizona

Dear Dr. Colglazier:

This is in reply to your letter of May 17, 1951, wherein you ask several questions regarding your budget and the payment of your expenses from the Naturopathic Board Fund. We believe the answer we will give to your last question will satisfy each of the other questions. The question is:

"I would like to ask if we will be required to stay within the amount appropriated by Legislature or can we spend all the money in our account for running expense?"

The 1943 Legislature by Chapter 86 passed what is known as the Budget and Financial Administration Act of 1943, which is supposed to have covered all the points pertaining to the financial affairs of all the departments of the State. In that Act the Legislature attempted to take all the money that was left at the end of the year in such funds, as the Naturopathic Fund, and revert them to the general fund but our Supreme Court in the case of Shapley v. Frohmler, 64 Ariz. 35, declared that the Budget Act of 1943 did not apply to funds, such as Beauty Board Funds which are set up by a special act, and that the Budget Act as it applied to such funds was unconstitutional. Since Section 67-1202 ACA 1939, which is your Act regarding your funds, is very similar to the provision in the Beauty Board Act in this respect, we are, therefore, of the opinion that the reasoning of this case applies to the Naturopathic Board Fund and your funds do not revert to the general fund.

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It is a cardinal principle of construction that a special law takes precedence over a general law. The Naturopathic Law governing your moneys is a special law and will take precedence over the general law such as the Budget and Financial Administration Act and you may spend the money available under your special Act as provided for by such Act.

Section 10-912, which is a part of the Budget and Financial Administration Act under the heading "Control of Public Finances", the part pertinent to your question is as follows:

"General fund and separate funds.--

* * * * *

Such expendable funds shall be expended only as authorized, regulated and controlled by the general appropriation bill or other act of the legislature.

* * * * *

(d) All private or quasi-private funds authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

* * * * *

No money shall be received or held by the state treasurer except as authorized by law and in every instance he shall issue his receipt for money received and deliver a duplicate of such receipt to the state auditor and no money shall be withdrawn from the treasury except upon the auditor's warrant."
(Emphasis supplied)

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The Naturopathic Law, 67-1202, provides that you must deposit all of your money with the State Treasurer and that ten per cent of your money will be credited to the State general fund and the remaining ninety per cent to the special fund to be known as the Naturopathic Board Fund to be held for the use of the Board and to be paid out on warrants drawn by the State Auditor after having been presented with the claim or voucher, signed by the president and secretary of the Board and bearing the imprint of the seal of the Board. The Board shall have the power to spend such moneys as may be necessary for the proper administration of this act; provided, however, that all expenditures of the Board shall be paid from moneys remaining in the Naturopathic Board Fund, and not otherwise.

It appears to us that the Naturopathic Law being a special law governs the expenditure of ninety per cent of all money collected by the Naturopathic Board and does not require a special appropriation by the Legislature, but this law is an appropriation of your funds.

It is therefore our opinion that the Naturopathic Board may spend in accordance with Section 67-1202 all the money in the Naturopathic Board account as may be necessary for the proper administration of the Naturopathic organization without the necessity of the Legislature's making an appropriation therefor.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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