

September 28, 1948

J. P. Ward, M.D., M.P.H.
Director of Public Health
Arizona State Department of Health
Capitol Annex
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Dr. Ward:

We have your request for our opinion of September 20th submitting the following question:

"A question has been raised about the duties delegated to the secretary of the Board of Health, such as those in the following:

'Section 67-212. Recording of Certificates - Each certificate issued by the Board of Examiners in the basic sciences shall be recorded by the secretary of such board with the secretary of the State Board of Health;' and

'Section 67-217. Investigation - Duties of Officers. - The secretary of the State Board of Health shall investigate any supposed violation of this act.....'

Do these duties now fall to the present secretary of the Board of Health as set up in section 68-117 or are they now the function of the Superintendent of Public Health, set up in section 68-101 and later changed to the Director of the State Department of Health in chapter 43, House Bill No. 2, Fifth Special Session of the Eighteenth Legislature?"

As you state in your letter Sections 68-101 to 68-106 inclusive providing for the Secretary of the Board of Health were repealed in 1941, but certain duties enumerated in Sections 67-212 and 67-217 remain duties of this Officer.

It is to be noted that Section 68-101, prior to its repeal, also provided that:

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"* * * the superintendent of public health * * * shall be secretary of said board * * *"

In the 1941 amendment the following appears in Section 68-103:

"State department of health.--
The state department of health shall consist of the state board of health, the superintendent of public health, and the several divisions of the department, including the state welfare sanatorium. The department shall succeed to and is hereby vested with the duties, powers, purposes, responsibilities, and jurisdiction heretofore by law vested in and imposed upon the state board of health, the superintendent of public health, * * * (Emphasis Supplied)

Section 68-109 reads in part:

"(b) The superintendent shall prescribe the powers and duties of the several divisions, and shall appoint the directors thereof, subject to the approval of the board."

It therefore appears clearly that, although the 1941 amendment abolished the office of Secretary of the Board, whose duties were performed by the Superintendent, the 1941 law also provided that the newly created department became vested with all the powers and assumed all the duties of the former Superintendent, and that the new Superintendent was given in Section 68-109(b) full authority to assign any of these duties formerly performed by him either to himself or any division under his control.

It is therefore our opinion that the duties imposed upon the Secretary of the Board of Health by Sections 67-212 and 67-217, A.C.A., 1939, may be assigned

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by the present Director of the State Department of Health
to any division or employee under his control.

Yours very truly,

EVO De CONCINI
Attorney General

PERRY M. LING
Chief Assistant
Attorney General

PML:lh