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June 5, 1952

Opinion No. 52-169

Mrs. Frieda B. Erhardt, R. N.
Secretary-Treasurer
Arizona State Board of Nurse Examiners
State House
Phoenix, Arizona

Dear Mrs. Erhardt:

We have your request for our opinion concerning the transfer of funds formerly held by the old Board of Nurse Examiners to the newly created Board of Nurse Registration and Nursing Education as provided by Chapter 39, 1952 Session Laws.

You state:

"Under (h) of Section 2 the fund of the new board is created and routine depositing and expending of monies is clearly defined. The auditor, however, is questioning that portion relating to the transfer of monies to said fund, quoted herein:

'Upon the taking effect of this Act there shall be transferred to said fund herein created all monies in the hands of the state treasurer then credited to the state board of nurse examiners heretofore existing and all unexpended monies appropriated for operation of said prior board.'

Apparently the Legislature intended to transfer two distinct funds, one, money credited to the State Board of Nurse Examiners and a second consisting of money appropriated to the board for the operation thereof.

That the Legislature believed there was a fund in addition to the sums appropriated to the board in 1949 and 1951 is borne out by the wording of the appropriations where the following is found in both bills:

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"From the State Board of Nurse Examiners fund the following is appropriated:"

This action by the Legislature is in contrast to the action taken in 1947, and the years prior thereto when the appropriations provided:

"From collections:

90% of all collections received during the fiscal year when paid into the treasury is hereby appropriated for current expenditures and capital outlay. 10% shall be credited to the General Fund."

It is to be noted that the old Nurse's Act made no provision for the disposition of the fees received by the board. These have evidently been deposited by the board with the State Treasurer as provided by Sections 10-916 and 10-917, and the Legislature for many years gave the board 90% of the fees for operational expenses and transferred 10% to the State General Fund. Beginning in 1949 and since that date, the Legislature has appropriated to the board a stipulated sum of money from "the State Board of Nurse Examiners Fund." Obviously, the Legislature considered that such a fund existed.

It is therefore our opinion that Section 2 of Chapter 39, Session Laws of 1952, Second Regular Session, Twentieth Legislature, appropriated to the new Nurse Registration and Educational Fund, any money remaining in the "Nurse Examiners Fund" from which the 1951 appropriation was made, and also any unexpended balance remaining from this appropriation.

Your second question relates to the fact that the new appropriation is made to "The State Board of Nurse Examiners", that is, the old name instead of the new is used. We consider this to be in the nature of a clerical error in preparing the appropriation bill, and in any event, all money appropriated to the old board is by the new act transferred to the new board.

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It is our opinion that the new board would take the appropriation and that the Auditor should set up an account crediting the new board with the old balances as well as the new appropriation.

Trusting this answers your inquiries, we are

Very truly yours,

FRED O. WILSON
Attorney General

PERRY M. LING
Chief Assistant
Attorney General

PML:d