

September 17, 1949

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mrs. Nora B. Shapley
357 North 15th Street
Phoenix, Arizona

Dear Mrs. Shapley:

We have your recent letter which is as follows:

"I would like a written opinion on our Beauty Law, page 16 - Sec. 24 and the last 2½ lines in paragraph A. Was it legally in order to call a meeting at this time 8-17-49 and elect a member out of her respective place, to another office, and can a member vote herself in said office."

Before attempting to answer your several questions we desire to quote the law applicable thereto, which is Section 67-324 (a) and (b). This is the same law that you refer to and is as follows:

"67-324. Organization of board.--(a)
The members of the first board shall immediately upon their appointment, meet and organize by electing a president, vice-president and secretary from among their number. The vice-president shall act as inspector and the president shall act as assistant secretary and assistant inspector. After the first meeting, the board shall annually on the second Monday in January, meet and organize.

(b) A majority of the board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it."

The Board of Beauty Culturists Examiners is a creature of statute and any and all authority which it possesses

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comes from the statute. Williams v. Industrial Accident Board, 97 P. 2d 1115. The Board of Beauty Culturists Examiners is an administrative body and has only such authority as is given it by law. Vermejo Club v. French, 85 P. 2d 90. The statute above quoted directs the members of the first board to immediately upon their appointment meet and organize by electing a president, vice-president and secretary from among their number. Then after giving the duties of the various officers, the statute directs "after the first meeting the board shall annually on the second Monday in January meet and organize". "Annually" means once each year, and "organize" as used in the statute would reasonably mean to elect a president, vice-president and secretary for the ensuing year or until the next annual meeting on the succeeding second Monday in January. This would be for a term of one year.

Section 12-404 provides for vacancies by law and is as follows:

"Vacancy by law.--An office shall be deemed vacant from and after the happening of either of the following events before the expiration of the term:
Death of the incumbent; his insanity, when judicially determined, his resignation, and the lawful acceptance thereof; his removal from office; his ceasing to be an inhabitant of the state or, if the office be local, of the district, county, city, or precinct for which he was chosen or appointed, or within which the duties of his office are required to be discharged; his absence from the state, without permission of the legislature, beyond the period of three (3) consecutive months; his ceasing to discharge the duties of his office for the period of three (3) consecutive months, except when prevented by sickness, or when absent from the state by permission of the legislature; his conviction of a felony, or of any offense involving a violation of his official duties; the failure of the person elected or appointed to such office, to file his official oath or bond within the time

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prescribed by law; the decision of a competent tribunal declaring void his election or appointment."

The above seem to be all the statutory law that appears on the question of the authority for calling a meeting on August 17, 1949 and electing new officers of the board, and if you should come within any one of those conditions, then the majority of the board would not only have the authority to meet and reorganize, but it would be their duty to do so. Section 67-324(b) as quoted above provides that the majority of the board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it. In reorganizing at any time each member of the board may vote for herself to fill any office of the board.

It does not appear that the board is empowered by law to change the officers of the board in the manner or at the time mentioned in your letter unless a vacancy occurs according to law. There is no statutory authority for such action unless you come under some or one of the provisions of Section 12-404 as quoted above.

Yours very truly,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

CR:ec
cc: Beauty Board