



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

February 2, 1948

**Hon. Marion M. Brown, M. D., Chairman
State Board of Medical Examiners
918 Texas Bank Building
Dallas 2, Texas**

Opinion No. V-493

**Re: Legality of the Secretary-
Treasurer of the State
Board of Medical Examiners
receiving compensation
both as member of the
Board and as Secretary-
Treasurer.**

Dear Sir:

We refer to your letter of recent date requesting an opinion from this office on the above subject, which reads as follows:

"In compliance with our conversation of this date, we are submitting a formal request for your opinion on several problems now confronting the Texas State Board of Medical Examiners. Before submitting the specific questions upon which we desire your opinion, it might be well for us to briefly give you a little history of our situation.

"Dr. Crowe, Secretary of the State Board of Medical Examiners for many years, has recently passed away, and the Board has selected Dr. H. F. Connally acting Secretary until such time as a permanent secretary may be selected. As you probably already know, Dr. Connally has been a member of the State Board of Medical Examiners for many years and has served as Chairman of the Reciprocity Committee.

"For Dr. Connally's services as a member of the State Board of Medical Examiners and Chairman of the Reciprocity Committee, he has participated equally with the other

members of the Board in the funds derived from the examination and reciprocity fees after all of said expenses have been paid.

"The Secretary of the State Board of Medical Examiners is paid a salary out of the doctors' annual registration fees which are deposited to a proper account in the State Treasury, and at no time is the salary of said secretary, or any portion thereof, paid out of the balance of examination fees or reciprocity fees.

"After making the foregoing statement, we would like to propound the following question:

"Can Dr. Connally draw a salary as acting Secretary of the State Board of Medical Examiners and at the same time participate with the other members of the Board in the funds derived from examination fees and reciprocity fees for services rendered in conducting examinations as a member of the Board?

"In addition to this question, the Board would like to know whether they have authority to move the State offices from their present location in the City of Dallas to some other city or town within the State of Texas."

We quote the following statutory provisions:

"Article 4495. The Texas State Board of Medical Examiners shall consist of twelve men, learned in medicine, legal and active practitioners in the State of Texas, who shall have resided and practiced medicine in this State, under a diploma from a legal and reputable college of medicine of the school to which said practitioner shall belong, for more than three years prior to their appointment on said Board. . . ."

"Article 4496. Each member of said board shall qualify by taking the official

oath in the county of his residence. At the first meeting of said board after each biennial appointment, the board shall elect a president, vice-president and secretary-treasurer. . . ."

"Article 4498a. . . . The Secretary-Treasurer shall receive a salary to be fixed by the Legislature in its General Appropriation Bill for the performance of such duties under this Act,"

"Article 4502. The fund realized from the aforesaid fees shall be applied first to the payment of necessary expenses of the board of examiners; any remaining funds shall be applied by the order of the board to compensating members of the board in proportion to their labors."

It will be noted from the foregoing statutory provisions that the State Board of Medical Examiners consists of twelve men (Art. 4495) and the Secretary-Treasurer is elected from its members (Art. 4496). See Attorney General's Opinion No. 0-6340. Annual registration fees collected by the State Board of Medical Examiners are required to be deposited in the State Treasury (Sec. 3 of Art. 4498a). Fees collected on reciprocal arrangements and examination fees (Art. 4502) are not deposited in the State Treasury. See Attorney General's Opinion No. 0-3711. Each member of the State Board of Medical Examiners is entitled to participate in the fees collected on reciprocal arrangements and examination fees as compensation for services rendered as member of the Board. The Secretary-Treasurer of the Board receives a salary set in the General Appropriation Bill out of the medical registration fund.

In addition to the duties performed by members of the Board, the Legislature has placed certain other duties on the member elected Secretary-Treasurer and for such services has provided that he "shall receive a salary to be fixed by the Legislature in its General Appropriation Bill." (Art. 4498a). In other words, the Legislature has provided that the Secretary-Treasurer shall perform certain duties in addition to those duties imposed upon him as member of the Board, and for performing those additional duties has allowed the Secretary-Treasurer additional compensation.

An officer is not entitled to additional compensation for additional work unless provision is made for the payment of additional compensation. Burke v. Teras County, 271 S. W. 132, error refused; McLennan County v. Boggess, 104 Tex. 311, 137 S. W. 346, but "where a statute allows the additional compensation, and there is no statute debaring further allowance, the official can receive compensation for performing duties of an office to which the duties of another are attached." City of Texarkana v. Floyd, 59 S. W. (2d) 449; 43 Corpus Jur. p. 691. Dr. Connally does not hold two offices or positions within the meaning of Sections 33 or 40 of Article XVI of the Texas Constitution. He holds one position (Board Member) with additional duties to that same office (Secretary-Treasurer). Jones v. Alexander, 122 Tex. 328, 59 S. W. (2d) 1080.

Since Dr. Connally is Acting Secretary-Treasurer of the Board, and in view of the statutory provision allowing the Secretary-Treasurer additional compensation for services rendered as Secretary-Treasurer, it is our opinion that Dr. Connally is entitled, for the period which he serves as Secretary-Treasurer, to the salary provided in the General Appropriation Bill, p. 886, Acts 50th Legislature, 1947, in addition to the compensation allowed under Article 4502, V. C. S., as member of the State Board of Medical Examiners.

In answer to your second question, we know of no provision fixing the location of the offices of the State Board of Medical Examiners. In the absence of statutory provisions fixing the location of the offices of the Board, it is our opinion that the State Board of Medical Examiners may move their offices to any city or town in Texas.

SUMMARY

(1) The Secretary-Treasurer of the Board of Medical Examiners, being a member of the Board, is entitled not only to participate in the compensation provided Board members under Article 4502, V. C. S., but also to receive the salary of the Secretary-Treasurer authorized by Article 4498a, V. C. S., as fixed by the Legislature in the General Appropriation Bill.

Hon. Marion M. Brown, M. D., page 5 (V-493)

(2) The State Board of Medical Examiners has the authority to move its offices from their present location to any other city or town in Texas.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *John Reeves*
John Reeves
Assistant

JR:MW

APPROVED:
Price Daniel
ATTORNEY GENERAL