



**THE ATTORNEY GENERAL
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February 5, 1971

Dr. Nelson F. Waldman
Chairman, Texas Optometry Board
710 Fannin Street
Houston, Texas 77002

Opinion No. M- 787

Re: Authority of the Texas
Optometry Board to expend
unexpended moneys pre-
viously in the custody of
the Texas State Board of
Examiners in Optometry.

Dear Dr. Waldman:

Your request for an opinion asks whether the Texas Optometry Board may legally expend moneys previously held by the Texas State Board of Examiners in Optometry.

The Texas Optometry Act (Senate Bill 781, Acts 61st Legislature, R.S., 1969, Ch. 401, p. 1298, codified as Article 4552-1.01 through 4552-6.04, Vernon's Civil Statutes) created the Texas Optometry Board (Section 2.01); abolished the Texas State Board of Examiners in Optometry (Section 6.01); and repealed prior laws regulating the practice of optometry (Section 6.03).

The moneys referred to in your request were collected and expended by the Texas State Board of Examiners in Optometry pursuant to the provisions of Article 4565 and Article 4565-a, Vernon's Civil Statutes, which have been specifically repealed by the provisions of Article 4552-6.03, Vernon's Civil Statutes.

The authority of the Texas Optometry Board to spend money under its control is Section 2.15 (Article 4552-2.15, Vernon's Civil Statutes) which provides that fees payable under the Texas Optometry Act after certain allocations:

" . . . shall be placed in the state treasury to the credit of a special fund to be known as the 'Optometry Fund,' and the comptroller shall upon requisition of the board from time to time draw warrants upon the state treasurer for the amounts specified in such requisition; provided, however, the fees from this optometry fund shall be expended as specified by itemized

appropriation in the General Appropriations bill and shall be used by the Texas Optometry Board, and under its direction in carrying out its statutory duties." (Emphasis added.)

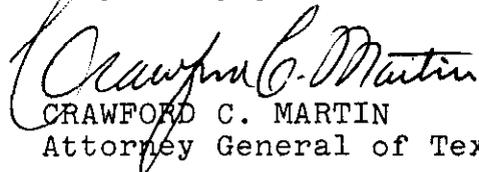
The money referred to in your request has not been directed by the Legislature to be placed in the State Treasury nor has such money been appropriated by the Legislature.

We find no other authority authorizing the Board to spend public funds, since the previous law has been specifically repealed; and in view of the fact that the Board, in the absence of some statutory direction, can only expend moneys as provided in the General Appropriations Bill, you are advised that moneys in the account of your predecessor board may not be expended by the present board until authorized by the Legislature.

S U M M A R Y

Moneys held by the Texas State Board of Examiners in Optometry, predecessor to the Texas Optometry Board, may not be expended by the present board until authorized by the Legislature since such moneys were not placed in the State Treasury and appropriated by the Legislature.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

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