

**OPINION  
45-210**

January 17, 1945           (OPINION)

MEDICAL EXAMINERS

RE: Funds - Use of

I received your letter of January 11, with reference to the surplus funds of the State Medical Association and the funds of the State Board of Medical Examiners.

If I have the facts correctly, the State Medical Association is purely a voluntary association. The State Board of Medical Examiners is provided for by law, section 43-1703 of the 1943 Revised Code.

Section 43-1715 of the 1943 Revised Code provides:

"All moneys and fees collected or received by the board under the provisions of this chapter shall be deposited with the state treasurer to be held by him for all legitimate expenses of the board. The state treasurer shall keep such moneys in a separate fund continued from year to year and shall disburse the same only on warrants drawn against such fund by the president and the secretary of the board."

If I am correct in my assumption that the State Medical Association is purely a voluntary organization, and has no legal basis as far as our statutes are concerned, then I am sure that there would be no basis for a transfer of any of the funds of the State Board of Medical Examiners to the State Medical Association. Furthermore, it would appear to me from the statute just above quoted, that the moneys disbursed on warrant drawn by the president and the secretary of the board of medical examiners would have to be for some legitimate expense of the board. Otherwise, the president and the secretary would have no right to request disbursement by the State Treasurer.

Under section 186 of the State Constitution, the so-called Jackpot Amendment, the fees and moneys received in connection with the licensing and organization of physicians and surgeons, etc., are not subject to the amendment and as a result would not have to be appropriated for the use of the State Medical Board.

It would appear to us that the funds of the State Board of Medical Examiners could not be transferred from the State Board of Medical Examiners to the North Dakota State Medical Association under the terms of the law. This money is only, as you will note, payable for the legitimate expenses of the board upon a warrant signed by the president and the secretary of the board upon a warrant signed by the president and the secretary of the board. To effect a transfer, it is my opinion that you would have to procure legislation authorizing such transfer.

NELS G. JOHNSON

Attorney General