

**OPINION  
47-172**

July 11, 1947 (OPINION)

LIVESTOCK

RE: Sanitary Board - Contracts with Members Illegal

This is in reply to your recent letter addressed to the Attorney General in which you inquire whether the veterinary members of the Livestock Sanitary Board may act as agents of the board.

Section 36-0108 of the North Dakota Revised Code of 1943 prescribes the duties of the members of the Board and provides as follows:

The state livestock sanitary board shall protect the health of the domestic animals of this state and shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic animals of this state. The board may make rules and regulations for the conduct of its business and to carry into effect the purposes of this chapter."

Section 36-0110 provides among other things that the State Livestock Sanitary Board may employ such officers, agents or assistants as it may deem necessary to carry out the purposes of this chapter, at a compensation to be fixed by the Board within the limits of appropriations made to the Board by the legislative assembly. I find no provision, however, which would authorize the Board as such to employ any of its members as agents to do field work.

Section 12-1006 of the North Dakota Revised Code of 1943 provides that every public officer authorized to sell or lease any property, or make any contract in his official capacity who voluntarily becomes interested individually in such sale, lease, or contract, directly or indirectly, is guilty of a misdemeanor.

Likewise, Section 48-0212 of the North Dakota Revised Code of 1943 provides that no governing board, nor any member, employee, or appointee thereof, shall be peculiarly interested or concerned directly or indirectly in any public contract, either verbal or written, that may be entered into by any such board or officer.

The Livestock Sanitary Board is a public board and the members thereof are public officers. If the Board as such should undertake to employ one of its members as an agent and compensate him for his services, that in effect would be a contractual relationship between the Board and one of its members and would come within the prohibition of the statutes which I have quoted.

The members of the Livestock Sanitary Board are entitled to the statutory compensation for attendance at its regular and special meetings together with their expenses, but there is no provision in the law for any other compensation.

It is, therefore, the opinion of this office that the Board may not appoint any of its members as its agents, as to do so would be in violation of the statutes which I have quoted herein.

NELS G. JOHNSON

Attorney General