

Opinion No. 51-5440

October 3, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Dr. J. J. Clarke, Sr. Secretary New Mexico Board of Dental Examiners Artesia, New Mexico

{*146} This is a consolidated reply to your letters of May 26, June 14, August 16 and September 21. Your first item of inquiry was whether or not the new law, which was HB 110 and is now Chap. 73, Laws of 1951, relative to the appointment of members to the State Board of Dental Examiners, was a valid law. This enactment simply changed the method of naming the members of boards. The old law provided that the Governor should name the members and that they should be confirmed by the State Senate. This new law provides that the appointments be made from a list of names supplied by the New Mexico Dental Society and eliminates the requirement of confirmation by the State Senate. There is nothing in the law to suggest any invalidity, it is a properly enacted statute.

Your second item of inquiry was whether or not the dentists, licensed in New Mexico, who are presently serving in the Armed Forces were required to continue making their annual renewal and payment of fees. The Legislature of New Mexico, in 1943, enacted Chap. 78, Laws of 1943, which reads as follows:

{*147} "Section 1. That any person having a license issued by any board or commission established by the laws of this State who are engaging in any business or profession who enter or are drafted into the armed services of this country, in connection with the present war, shall not in any way be prejudiced by reason thereof and upon their release from such armed services, or one year thereafter, shall be reinstated or shall retain their license after such release."

This law is still applicable. The President on December 31, 1946, in his presidential proclamation No. 2714, officially declared the end of hostilities, however, that declaration specifically pointed out that it did not declare an end to the war as such, the nation is still in a state of war. Since the foregoing statute was made applicable to the 'present war', its applicability is necessarily continuing until the end of the state of war which can only be ended by presidential proclamation.

It is my opinion that professional men licensed by your board, presently in the armed forces, are not required to make their annual application for renewal and payment of fees.

Your final inquiry was whether or not there was any conflict between the Dental Hygienist Act, which was HB 111 and is now Chap. 78, Laws of 1951, and the present

laws concerning the practice of dentistry. I wish to point out that in Section 1 of Chap. 78, Laws of 1951, it states:

"Provided, that nothing in this act shall be construed as affecting the practice of medicine or the practice of dentistry as provided by law; . . ."

It is my opinion that the dental hygienist law in no way affects the practice of dentistry nor does it affect the right of a dentist to perform the practices defined under dental hygiene in the Dental Hygienist Act.

I trust this will fully answer your inquiries.