

## Opinion No. 13-998

March 10, 1913

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Dr. C. H. Carnes, Secretary, Board of Optometry, Albuquerque, N. M.

### **OPTOMETRY.**

Failure to pay yearly dues good cause for revocation of certificate to practice optometry.

### **OPINION**

{\*163} I have today received your letter of the 8th inst. in which you call attention to the case of Mr. O. G. Bebber, who is practicing optometry and has failed to pay his yearly dues of \$ 2.00 per annum to your Board for at least three years preceding the present year. You say that you have mailed him two notices since the beginning of the present year, one of them registered, but that he pays no attention {\*164} to the notices, a copy of which in blank you enclose. You asked me to inform you how you should proceed properly and in accordance with law, as you have had no previous case of this kind.

The renewal fee is provided for in Section 12 of Chapter 96 of the Laws of 1905, and, after declaring that the optometrist, who desires to continue in practice, shall, annually on such date as the board may fix, pay that fee, not exceeding \$ 2.00 per annum, further proceeds "and in case of default in such payment, by any person, his certificate may be revoked by the Board of Examiners, under twenty days' notice of time and place of considering such revocation." I think this makes it incumbent for you to give Mr. Bebber a notice fixing a day not less than twenty days in the future and a place when and where the board will consider the matter of revocation of his certificate because he has failed to pay his annual registration fee. The board must meet at the time and place fixed and take the necessary action. You will notice that the statute provides that the certificate may be revoked by the Board of Examiners and, therefore, some distinct, recorded action of the board is necessary to the validity of the revocation.

I believe that your form of notice, which you enclosed, is slightly erroneous in stating that upon failure to pay "the certificate will be automatically revoked by the authority of this board." There must be distinct revocation by the board to be effectual.