

Opinion No. 28

BOARD OF PHARMACY; Expenses of members—BOARDS AND COMMISSIONS; Pharmacy; entitled to actual expenses — Section 66-1505, Revised Codes of Montana, 1947.

Held: Members of the Montana State Board of Pharmacy are entitled to receive their necessary expenses incurred in attending board meetings, even though such expenses are in excess of eight dollars (\$8.00) per day.

October 11, 1961

Mr. Emil Schoenholzer, Secretary
Montana State Board of Pharmacy
P. O. Box 2034
Billings, Montana

Dear Mr. Schoenholzer:

You have advised me that the members of the State Board of Pharmacy, in accordance with Section 66-1505, RCM, 1947, submitted

claims for their necessary expenses in attending a regular board meeting. The expenses claimed were in excess of eight dollars per day. The State Controller's office has rejected these claims advising you that Chapter 108, Laws of 1961, restricted the reimbursable expenses of members of the State Board of Pharmacy to eight dollars a day.

You ask if this advice is correct. The answer is no. Members of the Montana State Board of Pharmacy continue to be entitled to their necessary expenses incurred in attending Board meetings, regardless of the amount of such expenses.

Chapter 108, Laws of 1961, amended Section 59-538, RCM, 1947, increasing the daily rates of travel expenses for state employees from \$7.00 to \$8.00 within the state and from \$10.00 to \$11.00 outside the state. The amendment contains no language indicative of a legislative intention to repeal the statutes allowing members of regulatory boards actual expenses for attending board meetings. (See Sections 66-109, 66-408, 66-608, 66-809, 66-909, 66-1009, 66-1226, 66-1311, 66-1410, 66-1505, 66-1812, 66-2104, 66-2203, 66-2329, 66-2403 RCM, 1947.) The applicable rule of statutory construction, as enunciated by the Montana Supreme Court in *Equitable Life Assurance Co. v. Hart*, 55 Mont. 76, 87, 173 Pac. 1062, is:

"Unless there is a plain indication of an intent that the general act shall repeal the special, the latter will continue to have effect and the general words with which it conflicts will be restrained and modified accordingly."

For previous rulings of this office on this same question, see 20 Ops. Atty. Gen. 171, 19 Ops. Atty. Gen. 229, 17 Ops. Atty. Gen. 94. All of these opinions hold that Section 59-538 (which was then Section 459.1, RCM, 1935) does not apply to persons who are allowed actual expenses by special statute.

It is therefore my opinion that the members of the Montana State Board of Pharmacy are entitled to receive their necessary expenses incurred in attending Board meetings, even though such expenses are in excess of eight dollars (\$8.00) per day.

Very truly yours,
FORREST H. ANDERSON
Attorney General