

August 12, 1949.

WILBUR E. POWERS, *Secretary,*
State Board of Pharmacy,
28 West State Street,
Trenton 8, New Jersey.

FORMAL OPINION—1949. No. 87.

DEAR MR. POWERS:

Your letter of August 5, 1949, raises two questions, the first of which is whether the election of the secretary of your Board, which takes place annually, is subject to the approval of the Attorney General. The answer is in the affirmative, whether the person elected is a member of the Board or not. Even though membership on the Board is effected through appointment by the Governor, a person's status as secretary of the Board is not derived from that source. In so far as a Board member serves as secretary, his employment by the Board in that capacity is subject to the approval of the Attorney General under N. J. S. A. 52:17B-33.

The other question you raise is whether the position of secretary to the Board is in the classified or unclassified Civil Service. Our opinion of July 12, 1949, did not make any determination as to the status of particular employees of the Board. It merely observed that there is no law which places "the employees of the Board generally" in the unclassified service, and it advised that the matter of classification should be submitted in the first instance to the Civil Service Commission.

In your particular case, it is my opinion that your position as secretary of the Board must be unclassified. The Board is so constituted (N. J. S. A. 45:14-1) that it must be reorganized each year as a new member thereof takes office. It is necessary, therefore, that officers of the Board be elected or re-elected annually, from which it follows that the secretary can hold that office for only one year at a time. Consequently, he cannot be accorded the tenure which is the mark of positions in the classified service.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB :rk