

duty any member of the commission appointed by him, charges having been preferred and substantiated after public hearing."

The above provision clearly bestows upon the governor the right to remove commission members when they have been proven to be guilty of inefficiency or neglect of duty. It has been clearly established in this State that the Legislature can constitutionally clothe the appointing authority with the power of removal for neglect of duty. *McCran v. Gaul*, 95 N.J.L. 393 (Sup. Ct. 1920), Affirmed 96 N.J.L. 165 (E & A 1921); *Finnigan v. Miller*, 132 N.J.L. 192 (Sup. Ct. 1944); *Vanderbach v. Hudson County Board of Taxation*, 133 N.J.L. 126 (E & A 1945).

In our opinion unreasonably continued absence from meetings amounts to neglect of duty within the meaning of the statute. The provisions of Civil Service Rule 59 and 60 indicate that absence without leave is a sufficient cause for removal with respect to classified employees. Although those rules are not specifically applicable because the members of the Rehabilitation Commission are not classified employees, they furnish a persuasive analogy. Moreover, in *Vanderbach v. Hudson County Board of Taxation*, 135 N.J.L. 349 (E. & A. 1946) it was held that absence from regular duties without proper leave or permission was a valid cause for removal of a secretary of a county tax board.

You are advised, therefore, that if a hearing discloses that a member of the Rehabilitation Commission has absented himself from the meetings of the Commission continually and without justifiable reason, he may lawfully be removed from office by the Governor. No authority to remove members of the Commission appears to be vested in any other officer or body.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: GRACE J. FORD
Ass't. Deputy Attorney General

GJF:MH:JFC:mb

APRIL 26, 1956

HONORABLE DANIEL BERGSMA, M.D.
Commissioner, Health Department
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-17

DEAR DR. BERGSMA:

You have asked for an opinion with respect to the propriety of granting public health laboratory technician licenses without examination to licensed health officers, who were performing laboratory duties in 1950, but who did not file applications for such licenses within one year from the effective date of L. 1950, c. 119 which amended N.J.S.A. 26:3-21. You have also stated that although necessary application forms were furnished to these officials at the proper time, they allege that they did not file them with the Department because a responsible Department employee advised that

as licensed health officers it was not necessary for them to obtain technicians' licenses.

The pertinent statutory section is N.J.S.A. 26:3-21, which provides in part:

"All laboratory technicians now employed by boards of health under whatsoever title for the specific purpose of performing laboratory tests in bacteriology, serology, chemistry and related technical laboratory tests shall be granted public health laboratory technicians' licenses, without further examination, by the State Department of Health; provided, that said technicians apply to the department for same on a form provided by the department within one year of the effective date of this act." (As amended L. 1947, c. 181, p. 825, § 3; L. 1950, c. 119, p. 224, § 7.)

The statute in this regard is clear and unambiguous, leaving no room for the exercise of administrative discretion by any member of your Department. A holding that applications for laboratory technician licenses may be filed subsequent to one year from the effective date of the statute would do violence to the express statutory language employed.

Because the statute was effective in 1950, it is our opinion that such applications may no longer be entertained.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

TPC:DL:G

MAY 14, 1956

HONORABLE EDWARD J. PATTEN
Secretary of State
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-18

DEAR MR. PATTEN:

We have your request for an opinion concerning the terms of office of the Commissioners of the Civil Service Commission.

The Civil Service Commission was established by Chapter 156 of the Laws of 1908. Section 3 of that act provided:

"The Governor shall, by and with the advice and consent of the Senate, appoint four persons to be civil service commissioners under this act, all of whom must be residents of the State of New Jersey, and at the time of such appointment shall designate one of said commissioners to hold office for the term of one year, one for the term of two years, one for the term of three years and one for the term of four years, beginning from the date of the approval of this act; and thereafter at the expiration of such period of one year the Governor of this State shall, by and with the advice and consent of