

OPINION
67-156

August 16, 1967 (OPINION)

Mr. Lyle Limond

Executive Secretary and

Treasurer

North Dakota State Board of

Medical Examiners

RE: Physicians - License - Requirements

This is in response to your letter in which you refer to section 43-17-18(5) of the North Dakota Century Code, which provides as follows:

"QUALIFICATIONS OF APPLICANT FOR EXAMINATION. An applicant for a license to practice medicine shall present evidence satisfactory to the board that he has the following qualifications:

* * *

5. That he has satisfactorily completed a one year internship in an approved hospital for approved internship or in a hospital approved by the board."

You then state that the board desires a ruling whether or not "one year of residency in some specialty" can be construed to satisfy the internship requirements of subsection 5. You also furnished us with authoritative definitions of the terms "internship" and "residency."

Webster's Dictionary defines "internship" as: "1. the position of an intern. 2. the period of service as an intern." "Intern" is defined to mean: "* * * a doctor serving as an assistant resident in a hospital generally just after his graduation from medical school: * * *." (Underscoring ours.) It defines "resident" to mean: "* * * 2. living or staying in a place while working, carrying on official duties, etc.; as, a RESIDENT physician of a hospital." "Residence" as defined means: "* * * 2. the fact or status of living or staying in a place while working, going to school, carrying out official duties, etc. (usually preceded by IN); as students are required to be IN RESIDENCE two years."

An "intern" according to 70 C.J.S., PHYSICIANS AND SURGEONS, section 1, page 807, "* * * is a physician; he is a graduate of a medical school with a doctor's degree, although, it may be, not licensed to practice his profession in the ordinary way by so holding himself out to the public. In many instances he does the work of the physician and, in other respects, relieves the physician of professional services which he would ordinarily perform."

The definition of the word "internship" furnished by you, as being the product of the American Medical Association and approved by the American Medical Association house of delegates, is as follows:

"Internship - the internship is that phase of medical education and training which ordinarily follows immediately upon the completion of the four-year, undergraduate medical curriculum. It consists of the supervised practice of medicine among the patients in a hospital and in its outpatient department, with continued instruction in the science and art of medicine by the hospital staff."

The definition of the term "residency" as furnished by you is as follows:

"Residency - that portion of graduate medical education following completion of the internship, and consisting of two or more years of formally organized educational activities, usually within hospitals and their outpatient departments, during which the young physician assumes a graded and progressive increase in responsibility for patient care, under appropriate supervision, to that point where he is considered qualified for the independent practice to the field of medicine in which he has been working." (Underscoring ours.)

The various definitions of the word "internship" while not being identical, substantially they are in accord as to the material elements.

By comparison the term "residency" not only embraces some phases of an internship but includes additional training. The term "residency", according to your definition, is a phase of training which comes after having completed an internship. It is also suggestive of specialized training in a certain field or area of medicine.

These are terms which are more frequently used by the medical profession. It is even possible that the medical profession coined these words. Under these conditions we place great weight on the definitions that you furnished us. Until such terms are defined by statute, we will be inclined to ascribe the meaning given to such terms in the definitions you furnished us.

It is therefore our opinion that a person, upon completion of his residency, would meet the requirements of section 43-17-18(5) of the North Dakota Century Code as to internship. We do not believe that the board can refuse a license to a person who otherwise qualifies, including internship, merely because he has not had a residency. If it is the desire of the board to add "residency" as an additional qualification, it would have to be done by legislative enactment, unless the term "residency" is redefined and is given a meaning which is similar to the term "internship."

HELGI JOHANNESON

Attorney General