

Date Issued: January 22, 1985 (AGO 85-2)

Requested by: Honorable Pat Conmy
State Representative

- QUESTION PRESENTED -

Whether N.D.C.C. chapter 43-12.1 grants the State Board of Nursing the authority to change the requirements for eligibility to take the nursing license examination by eliminating graduates from the diploma schools of nursing and requiring applicants to have a baccalaureate degree from an institution of higher learning prior to license examination.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the State Board of Nursing has the authority to change the requirements for eligibility to take the license examination by eliminating the graduates from the diploma schools of nursing and requiring applicants to have a baccalaureate degree from an institution of higher learning.

- ANALYSIS -

The portions of N.D.C.C. chapter 43-12.1 which apply to this request are as follows:

43-12.1-08. POWERS AND DUTIES OF THE BOARD. The board shall:

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6. Establish standards for all nursing education programs or acknowledge programs accredited by national nursing accrediting agencies.
7. Conduct surveys as necessary of nursing education programs required to meet board standards.
8. Approve such nursing education programs which meet board standards.

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43-12.1-10. LICENSE BY EXAMINATION. Any person who desires to practice as a registered nurse or licensed practical nurse in this state shall be required to write and pass the licensing examination given by the board. Such persons shall file a certified written application for license by examination at least thirty days before the examination accompanied by the prescribed fee and submit satisfactory proof of having the following qualifications:

1. Satisfactory completion of the appropriate nursing education program in another country or the appropriate nursing education program approved by a board of nursing in the United States.

2. Recommended to the board by the nursing faculty of the completed nursing education program.

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The above-referenced subsections, in particular N.D.C.C. section 43-12.1-08(6), (7), and (8), give the Board of Nursing the authority to establish standards for nursing education programs and approve those programs which meet those established standards. As long as rules are adopted in accordance with N.D.C.C. chapter 28-32, and the action is not arbitrary or capricious, the Board has the clear authority and ability to accept certain programs for nurse licensing while rejecting others. This authority includes the discretionary judgment to reject a hospital-based school of nursing which grants a diploma as an acceptable nursing education program.

- EFFECT -

This opinion is issued pursuant to N.D.C.C. section 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts, or the applicable provisions of law are amended or repealed.

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