

N.D.A.G. Letter to Dahlgren (Oct. 22, 1985)

October 22, 1985

Mr. Albert Dahlgren
Secretary-Treasurer
North Dakota Board of Massage
508 21st Ave. So. Fargo, ND 58103

Dear Mr. Dahlgren:

Thank you for your letter dated, September 9, 1985, regarding the following two questions: (1) whether the North Dakota Board of Massage may grant licenses to individuals who trained in Europe; and (2) whether a six-month residency requirement may be waived for individual applicants seeking to be licensed by the North Dakota Board of Massage.

Your first question is whether the North Dakota Board of Massage may grant licenses to individuals who have been trained in Europe. N.D.C.C. 43-25-07 provides, in relevant part, as follows:

43-25-07. REQUISITES FOR EXAMINATION -- SUBJECTS --
MINIMUM PASSING GRADE -- FEES. Any person who shall furnish to the board satisfactory proof that he or she is eighteen years of age or more, a high school graduate and a bona fide resident of the state of North Dakota for at least one month immediately preceding his or her application to take the examination, and of good moral character and temperate habits, and shall present a diploma or credentials issued by a recognized, approved school of massage or like institution . . . (Emphasis supplied.)

The North Dakota Board of Massage is an administrative agency. N.D.C.C. 28-32-01(1). North Dakota law provides administrative agencies with the authority to adopt administrative rules in conformity with the statutory provisions administered by such agencies. N.D.C.C. 28-32-02.

The legislature has required applicants for massage licenses to possess a diploma or credentials issued by a recognized, approved school of massage or like institution. However, the legislature has not described the manner in which schools may become recognized and approved. To implement this statutory provision, the Board of Massage must enact administrative rules providing a method whereby schools of massage or like institutions are deemed to be recognized and approved.

Until such time as administrative rules are duly enacted by the Board of Massage pursuant to N.D.C.C. Ch. 28-32, the Board may not act to recognize and approve a school

of massage or a like institution so as to implement the requirements of N.D.C.C. § 43-25-07.

Your second question is whether a six-month residency requirement may be waived for individual applicants seeking to be licensed by the North Dakota Board of Massage. You may recall that this matter was discussed in my letter to you dated September 24, 1985. According to the terms of N.D.C.C. § 43-25-07, an individual need only be a North Dakota resident for one month before applying to take the North Dakota Board of Massage's registration examination .

Sincerely,

Nicholas J. Spaeth

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