

N.D.A.G. Letter to Freise (Oct. 19, 1987)

October 19, 1987

Mr. Robert P. Freise
Director
Division of Emergency Health Services
ND State Department of Health
State Capitol
Bismarck, ND 58505

Dear Mr. Freise:

Thank you for your letter of September 4, 1987, regarding the pre-hospital emergency medical services system. You have inquired whether North Dakota Administrative Code § 50-03-01-12 conflicts with N.D. Admin. Code § 50-03-03-03.

N.D. Admin Code ch. 50-03-01 regulates the practice of a physician's trained assistant. In general, that chapter identifies and restricts what a physician's trained assistant may do, and it limits the authority of the physician to the delegation of duties to the assistant. N.D. Admin. Code § 50-03-01-12 provides, however, that N.D. Admin. Code ch. 50-03-01 shall not limit a physician's authority to delegate certain acts, tasks, or functions.

50-03-01-02. PHYSICIAN'S DELEGATION TO QUALIFIED PERSON NOT RESTRICTED. Nothing in this chapter shall limit or prevent any physician from delegating to a qualified person any acts, tasks, or functions which are otherwise permitted by law or established by custom.

(Emphasis supplied.)

The exception in N.D. Admin. Code § 50-03-01-12 relieves the physician of the restrictions and limitations found in N.D. Admin. Code ch. 50-03-01 only when a delegation to a qualified individual is otherwise allowed by law or custom. This exception applies only to N.D. Admin. Code ch. 50-03-01, and does not relieve any individual from the requirement of any other law or regulation.

N.D. Admin. Code § 50-03-03-31, on the other hand, requires that individuals demonstrate their proficiency as an emergency medical technician. Thus, a physician is not permitted to delegate certain acts involving emergency medical services unless that individual meets the requirements of N.D. Admin. Code ch. 50-03-03.

N.D. Admin. Code §§ 50-03-01-12 and 50-03-03-03 are not in conflict. Individuals must meet the requirements of N.D. Admin. Code § 50-03-03-03 in order to act as emergency medical technicians, and this requirement is not altered by the language of N.D. Admin. Code § 50-03-01-12.

If you have any other questions regarding this subject, please contact me.

Sincerely,

Nicholas J. Spaeth

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