

N.D.A.G. Letter to Ottinger (Oct. 26, 1987)

October 26, 1987

Roy A. Ottinger, D.C.
Secretary-Treasurer
State Board of Chiropractic Examiners
1300 Sixth Avenue N.E.
Jamestown, ND 58401

Dear Dr. Ottinger:

Thank you for your letter of July 30, 1987, in which you requested assistance in determining whether or not it is legal for the State Board of Chiropractic Examiners to use the Written Clinical Competency Examination (hereinafter WCCE) prepared by the National Board of Chiropractic Examiners in lieu of part of the present state examination. I apologize for the delay in responding to you.

N.D.C.C. § 43-06-10 provides:

43-06-10. EXAMINATION -- SUBJECTS COVERED. The examination for a license to practice chiropractic in this state must be in the manner and form as prescribed by the board from time to time. It must cover the following subjects:

1. Anatomy.
2. Physiology.
3. Symptomatology.
4. Diagnosis.
5. Nerve tracing.
6. Nutrition.
7. Chiropractic orthopedics.
8. Chemistry.
9. Pathology.
10. Bacteriology.
11. Obstetrics and gynecology.
12. Chiropractic philosophy.
13. Chiropractic jurisprudence, adjusting, and patient management as taught by approved and accredited colleges of chiropractic.
14. X-ray.

This section clearly authorizes the Board to determine the manner and form of the chiropractic examination which must test on the enumerated subjects, and make subsequent changes in the examination.

N.D.C.C. § 43-06-10.1 provides:

43-06-10.1. NATIONAL BOARD EXAMINATION. The board may in its discretion accept parts one and two of the national examining board examination in lieu of part of an examination for a license, providing all other requirements are met but will require examination in:

1. Nutrition.
2. Chiropractic orthopedics.
3. Nonsurgical gynecology.
4. Chiropractic jurisprudence, adjusting, and patient management as taught by approved and accredited colleges of chiropractic.
5. X-ray.

This section authorizes the Board to accept two specific parts of the "national examining board examination" in lieu of part of the North Dakota examination, but testing is required on the subjects of nutrition, chiropractic orthopedics, nonsurgical gynecology, jurisprudence, adjusting, patient management, and X-ray. It is my understanding that the reference in the statute to the "national examining board" means the National Board of Chiropractic Examiners which conducts a national examination containing two parts denominated "Part I" and "Part II."

In order to answer your question on using the WCCE, we must first determine whether N.D.C.C. § 43-06-10.1 allows the use of a national examination only for the subjects listed in N.D.C.C. § 43-06-10 for which actual testing is not required under N.D.C.C. § 43-06-10.1, or whether N.D.C.C. § 43-06-10.1 specifically authorizes the use of parts I and II of the national exam but does not prohibit the Board from adopting another section of the national exam to test on the five areas listed in N.D.C.C. § 43-06-10.1. Based upon information provided by the Board, it is my understanding that parts I and II do not test in the five areas set forth in N.D.C.C. § 43-06-10.1. Therefore, it appears that N.D.C.C. § 43-06-10.1 was intended to authorize the Board to utilize parts I and II of the national exam to test in the areas covered by those parts, but that actual testing by the Board would be required in the five enumerated areas because those subjects were not covered by parts I and II of the national examination.

Furthermore, although N.D.C.C. § 43-06-10.1 requires actual testing in the five specified areas, there is nothing in the statute which specifically prohibits the Board from adopting an examination of its choice to test on those subjects. Consequently, the examination adopted by the Board to test applicants on the subjects set forth in N.D.C.C. § 43-06-10.1(1) through (5) may either be prepared by the Board or some other individual, or organization.

A review of the material prepared by the National Board of Chiropractic Examiners on the WCCE which you sent with your letter indicates that the examination tests on the subjects of case history, physical examination, neuromusculoskeletal examination, roentgenologic examination, clinical laboratory and special studies examination, diagnosis and clinical impression, chiropractic techniques, supportive techniques, and case management. Therefore, it appears that the WCCE does test on some of the subjects listed in N.D.C.C. § 43-06-10.1, including X-ray, adjusting, patient management, and, possibly, some others.

It is my opinion that the Board may adopt the National Board of Chiropractic Examiners' WCCE as part of the North Dakota Chiropractic examination, if it wishes to do so. The Board may conclude that the WCCE satisfies some of the requirements of N.D.C.C. § 43-06-10.1 if it determines that the test sufficiently examines applicants on the respective subjects. However, the Board must continue to examine applicants on jurisprudence and any of the other subjects listed in N.D.C.C. § 43-06-10.1(1) through (5) which are not sufficiently covered by the WCCE.

If the Board wishes to adopt the WCCE as part of the North Dakota Chiropractic Examination or make any other substantive changes in the state examination, such changes should be made through the administrative rulemaking procedure pursuant to N.D.C.C. ch. 28-32. A review of the administrative rules adopted by the Board (N.D. Admin. Code Art. 17-02) indicates that any changes in the examination could possibly be adopted by amending N.D. Admin. Code § 17-02-01-08. The amended examination rule should specifically identify the various sections of the state examination and the subjects covered by them.

I hope that this information will be useful to you.

Sincerely,

Nicholas J. Spaeth

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