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July 31, 1954
Letter Opinion
No. 54-199-L

Mr. Herbert D. Rhodes
Secretary-Treasurer
Arizona State Board of Examiners
in the Basic Sciences
University of Arizona
Tucson, 25, Arizona

Re: Reciprocal licensure policy

Dear Mr. Rhodes:

We are in receipt of your recent letter asking whether the recently adopted policy of the Arizona State Board of Examiners in the Basic Sciences relating to licensure is in conflict with the law.

We understand this new policy is to prohibit the issuance of a reciprocal certificate unless the applicant was licensed to practice in another basic science state on the date the basic science law of that state became effective, and provided, further, that he must have been licensed prior to November 27, 1936, the effective date of Section 67-208, A.C.A. 1939.

Pertaining to the issuance of certificates without examination, Section 67-208, A.C.A., 1939, reads as follows:

"67-208. Certificate without examination--
Any person, not hereinafter excepted from the provisions of this act, who was lawfully authorized to practice healing, as by this act defined, in this state on the date this act takes effect, and who was on that date regularly licensed or registered in the manner then by law provided, shall upon application as herein provided, receive from the state board of examiners in the basic sciences a certificate of registration in the basic sciences without examination therein; provided, however, that on or before September 1st, 1937, every such person shall apply to the secretary

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of said board for such certificate of registration, accompanying such application with sufficient and satisfactory evidence that he was, on the effective date of this act, lawfully authorized to practice healing or regularly licensed or registered according to law in the particular branch or system of healing by him pursued and specifying in said application the branch or system of healing pursued by the applicant, the school from which he graduated, if any, and the date of graduation from said school, together with a fee of three dollars (\$3.00). Such certificate of registration shall recite that registration is made solely as a person lawfully authorized to practice healing or licensed or registered according to law on the date this act takes effect, and that same was issued without examination in the basic sciences. Any person entitled to a certificate of registration in the basic sciences without examination therein pursuant to the provisions of this section, who fails to apply for same in the manner herein provided shall not receive such certificate of registration except upon application for examination and actual examination in the basic sciences as hereinbefore provided; provided, however, said state board of examiners in the basic sciences shall after the first day of September, 1937, upon payment to it of a fee of twenty-five dollars (\$25.00) issue a certificate of registration in the basic sciences without examination to any person who would have been entitled thereto pursuant to the provisions of this section upon applying therefor on or before the first day of September, 1937, and who makes application therefor in the manner herein provided and shows good cause why said application was not made on or before the first day of September, 1937." (Emphasis supplied)

The unambiguous meaning and intent of this statute, as

described by the words contained therein, is that it is applicable only to those persons who were lawfully authorized to practice healing in the state of Arizona on or before the effective date of the enactment. Consequently, under the terms of Section 67-208, supra, only those persons who were lawfully authorized to practice healing in Arizona at the effective date of the law are permitted to receive certificates of registration in the basic sciences without examination. No provision was made for the issuance of certificates to persons authorized to practice healing in states other than Arizona.

In 1945, Section 67-207(b), A.C.A. 1939, as amended, was passed, providing for the issuance of certificates of registration in the basic sciences on a reciprocal basis for persons certified in other states or territories. Section 67-207(b), supra, specifies:

"67-207. Certificates of registration.--
* * * * *

(b) An applicant, a citizen of the United States, furnishing satisfactory proof of a certification, registration, or license issued to such applicant within any state or territory of the United States in which the requirements for the registration of said applicant at the date of issuance of his license shall be deemed by the board to be equivalent to those of Arizona, shall be eligible for registration by reciprocal endorsement at the discretion of the board, upon payment of the registration fee prescribed in Section 67-206."

Nowhere in the above quoted law is there contained any provision that the applicant, who has been certified by another state, must have been issued certificate as of a date certain in order to be eligible to apply and receive a certificate of registration from Arizona.

The clear import of the language in Section 67-207, supra, indicates that it was the intention of the legislature that not only those applicants certified in other states prior to 1945, when the law was enacted, should be eligible for certificates in Arizona on the basis of reciprocity, but, in addition, any persons who may be certified in the future in other states should be eligible. The purpose of this law is not to prescribe or limit in any way the number of certificates issued, but is merely to insure high standards of training.

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Indeed, the issuance of a certificate of registration in the basic sciences with regard to each individual application is within the discretion of the Arizona State Board of Examiners in the Basic Sciences, to the extent that such discretion may not be exercised in an arbitrary or capricious manner. Nevertheless, no authority exists in the law for the promulgation by the Board of a policy limiting the issuance of certificates in Arizona on a reciprocal basis, to those certified in other states prior to any given date.

It is, therefore, the considered opinion of this office, that the recent licensure policy adopted by the Arizona State Board of Examiners in the Basic Sciences at its meeting on June 18, 1954, is inconsistent and in conflict with the provisions of Section 67-207, supra.

We hope the above information will be of assistance to you and the Board.

Sincerely,

WILLIAM T. BIRMINGHAM
Assistant to the
Attorney General

WTB:mp

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