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ARIZONA ATTORNEY GENERAL

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

April 17, 1984

Mr. Douglas N. Cerf
Executive Director
Arizona Board of Medical Examiners
5060 North 19th Avenue, Suite 301
Phoenix, Arizona 85019

Re: I84-052 (R84-029)

Dear Mr. Cerf:

You have asked whether Ch. 3, § 1, Laws 1984, 1st Reg. Sess. requires the Arizona Board of Medical Examiners to give a new oral competency examination to licentiates who originally obtained regular medical licenses by passing oral competency examinations which supplemented written licensure examinations. These particular licentiates took the oral supplemental examination after having failed to achieve a score of seventy-five percent or more on the written examination. Specifically, the legislation in question provides:

Any license issued by the state board of medical examiners prior to July 1, 1981, which was issued on the basis of a score of less than seventy-five percent on a written examination administered by this board and subsequently supplemented by an oral competency examination authorized by the board, which has been renewed annually through January 1, 1984, is declared to be a valid license subject to all past, pending and future actions of the board with respect to such licenses. Such licenses may be renewed by the board upon compliance with the requirements for renewal of licenses except that no license may be renewed for periods from and after December 31, 1985, if the holder of such license has not prior thereto passed with a score of seventy-five percent or

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better the written examination administered by the board or successfully passed the oral competency examination administered by the board in the holder's area of practice.

(Emphasis added)

We note that this legislation clearly distinguishes between two different systems of testing requirements. The former system, utilized for licensing prior to July 1, 1981, contemplates that an oral competency examination is only used as a supplement to a written examination. All applicants had to take a written examination under the former system. The new system adopted by this recent enactment allows the oral competency examination to be offered as an independent alternative to a written examination. An applicant will not necessarily take the written examination. Accordingly, the old practice which allowed a supplementary oral competency examination would not satisfy the independent oral competency examination alternative under the new system.

Our interpretation of this new law is also governed by the fundamental rule that requires us to presume that the Legislature did not intend to do a futile thing by including a provision which is not operative. City of Mesa v. Killingsworth, 96 Ariz. 290, 394 P.2d 410 (1965). Statutes are to be construed so that no clause, sentence or word is rendered superfluous, void, contradictory or insufficient. State v. Superior Court for Maricopa County, 113 Ariz. 248, 550 P.2d 626 (1976); Marlar v. State, 136 Ariz. 404, 666 P.2d 504 (App. 1983).

Based upon these rules of statutory construction, we must, therefore, conclude that an applicant who passed the oral supplemental examination which was previously allowed under the former licensing system has not satisfied the requirements imposed by the new law which clearly contemplates that any oral examination is an independent, not supplemental, examination. To hold that having passed the supplemental examination satisfies the independent examination alternative passed by the new law would render the new law unnecessary and superfluous. By definition, the affected licentiates would already have satisfied the new requirements of a written examination or an independent oral examination by having passed the supplemental

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examination. Clearly, the Legislature did not intend to enact a statute which would have no effect.

For these reasons, we conclude that a licentiate who originally obtained a regular medical license by passing a supplemental oral competency examination has not, by merely passing the previous supplemental oral examination, satisfied the requirements imposed by Ch. 3, § 1, Laws 1984, 1st Reg.Sess.

Very truly yours,



BOB CORBIN
Attorney General

BC:SMS:kmc