

MAINE STATE LEGISLATURE

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May 18, 1973

Alan D. Ferguson, Director
New England Board of Higher Education
40 Grove Street
Wellesley, Massachusetts 02181

Dear Mr. Ferguson:

The press of office work has prevented me from responding to your letter until today. Please accept my apologies for delay. You posed two important questions for our attention:*

1. Whether the State of Maine may legally participate in the cooperative development and maintenance of a regional school of veterinary medicine?
2. Whether the State of Maine may legally contribute to the capital costs of such a school?

For reasons stated below, both questions are answered in the affirmative, subject to conditions noted.

The New England Board of Higher Education is an agency of the State of Maine by virtue of the fact the Maine Legislature authorized the Governor to enter into a compact substantially as set forth in P. L. 1955, c. 441, § 1 (now 20 M.R.S.A. § 2751 - 2760), and by virtue of the additional fact that the effective date of the Compact was realized when then Governor Edmund Muskie signed the Compact August 20, 1955 pursuant to the provisions of 20 M.R.S.A. § 2805.

Neither Maine nor any of the other New England States have a college or university program in veterinary medicine.

The purpose of the Compact, set forth in 20 M.R.S.A. § 2751, authorizes the establishment and maintenance of coordinated educational programs for veterinary medicine, among other fields of study.

* The questions involve Maine's participation in the Compact administered by the New England Board of Higher Education under P.L. 1955, c. 441, § 1, as amended (20 M.R.S.A. § 2751-2805).

The purposes of the New England Higher Education Compact shall be to provide greater educational opportunities and services through the establishment and maintenance of a coordinated educational program for the persons residing in the several states of New England parties to this compact, with the aim of furthering higher education in the field of medicine, dentistry, veterinary medicine, public health and professional, technical, scientific, literary and other fields."

The Maine Legislature, when enacting provisions relating to the Compact, specified that the several New England states deemed it feasible to cooperatively provide needed educational facilities in New England in the field of veterinary medicine, among other fields.

" § 2802. Purposes

"The several New England States cooperatively deem it feasible to provide needed, acceptable, efficient, educational facilities to meet the needs of New England in the fields of medicine, dentistry, veterinary medicine, and other fields of technical, professional and graduate training."
20 M.R.S.A. § 2802.

The provision of higher education is a public purpose and responsibility of the State of Maine. 20 M.R.S.A. § 2251. Maine maintains a state university system including both undergraduate and graduate programs; and it is inevitable that from time to time the number and specific content of these programs should vary, depending on the needs of and resources available to the State. Maine does not maintain a school of veterinary medicine; but the subject matter is well recognized as one belonging to the university curriculum. Seventeen states presently support schools of veterinary medicine as part of their state university system.* Accordingly, it seems clear that Maine could establish and maintain a school of veterinary medicine either at the University of Maine or some other state-supported institution.

* Alabama, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Kansas, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Texas and Washington. In Pennsylvania, the school of veterinary medicine is at a private institution (the University of Pennsylvania) which receives substantial state support.

The New England Board of Higher Education, as an agency of the State of Maine, has the powers and duties enumerated in the Compact and the concurrent legislation relating to the Compact. 20 M.R.S.A. § 2752. The Board possesses legislative authority to provide needed, acceptable, efficient educational facilities to meet the needs of New England in the field of veterinary medicine, among other fields of study. The term "facilities" is certainly broad enough to include both program and school building. A facility is that which promotes the ease of any action, operation, transaction, or course of conduct. Black's Law Dictionary, "Facilities". A lesser interpretation of the Compact and concurrent supportive legislation would greatly restrict the application of the law to only those programs having an existence in the New England States. Such a narrow construction is not required. Art. IV of the Compact specifies that:

" * * * The board shall not pledge the credit of any compacting state without the consent of the legislature thereof given pursuant to the constitutional processes of said state. * * * "

To the extent that compacting states desire to enter into contractual agreements or arrangements respecting capital expenses involved in the construction of a school for veterinary medicine, the provisions of Article V of the Compact specifies that the Board's authority to enter into contracts is conditioned upon an appropriation of funds by the compacting states.

" * * * .

"2. Contractual agreements or arrangements. Enter into such contractual agreements or arrangements with any of the compacting states or agencies thereof and with educational institutions and agencies as may be required in the judgment of the board to provide adequate services and facilities in educational fields covered by this compact. * * * the board's authority to enter into such contracts shall be only upon appropriation of funds by the compacting states. * * * "

In conclusion, it is our opinion that the State of Maine may legally participate in the cooperative development and maintenance of a regional school of veterinary medicine, including contributions of funds for construction of such a school, provided first that appropriation of funds is made by the Maine Legislature.

Respectfully yours,

JOHN W. BENOIT, JR.
Deputy Attorney General