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Osteopathic Assistants
32 M.R.S.A. 3270-B
32 M.R.S.A. 2594-A

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December 30, 1976

Dr. Stanley H. Rowe
Secretary-Treasurer
Board of Osteopathic Examination and Registration
31 Main Street
Gorham, Maine 04038

Dear Dr. Rowe:

This responds to your inquiry regarding the effect of changes in the law relating to physicians' assistants to the authority of the Board of Osteopathic Examination and Registration.

QUESTIONS:

Specifically, you pose two questions:

"1. In the light of two separate medical practice acts in Maine statutes providing for two boards of registration, does the enactment of 32 M.R.S.A. § 3270-B properly assign to one of those boards of registration the sole responsibility for certification and re-registration of all physician's assistants permitted to practice in Maine?

and/or

"2. Do the present provisions regarding Assistants, as contained in Title 32, Chapter 36, Sub-Chapter VIII § 2594-A sufficiently establish the responsibility of all parties involved, and does the Board of Osteopathic Examination and Registration function appropriately and properly by recognizing such affiliations to be at the discretion of and the responsibility of the individual physician?"

ANSWER:

The enactment of 32 M.R.S.A. §§ 3270-B through 3270-D do not affect the authority provided to the Board of Osteopathic Examination and Registration as provided by 32 M.R.S.A. § 2594-A to regulate osteopathic physicians' assistants.

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DISCUSSION:

The legislation amending the law relating to physician's assistants was adopted by P.L. 1975, c. 680. It was adopted as emergency legislation, and by the provisions of 32 M.R.S.A. § 3270-D, it goes out of effect in April, 1977. It amended the authority of the Board of Registration in Medicine to regulate physician's assistants. That authority, 32 M.R.S.A. § 3270-A, contains language very similar to the physicians' assistants registration authority for the Board of Osteopathic Examination and Registration, 32 M.R.S.A. § 2594-A.

The statutory placement and legislative history of enactment of Chapter 680 clarifies that it was intended to apply only to physicians' assistants previously regulated in accordance with § 3270-A and that it was not intended to extend the authority of the Board of Registration in Medicine to regulate physicians' assistants previously regulated under § 2594-A. Thus, the new amendments follow the general regulatory authority in § 3270-A which is specifically limited to "this chapter" and thus does not extend to the authority of the Board of Osteopathic Examination and Registration for another chapter. Further, during floor discussion of the legislation, L.D. 2107, which lead to Chapter 680, it was quite clear that L.D. 2107 was intended to limit itself to further clarification of the authority of the Board of Registration in Medicine. In explaining the legislation Representative Goodwin noted that the statute was an expansion and clarification of the existing authority of the Board of Registration in Medicine in order to avoid problems with § 3270-A which was perceived as too general.

"The statute just gives the Board of Registration in Medicine the authority to promulgate rules and regulations regarding physicians' assistants. The problem with this is that according to various state Supreme Court rulings, we have to provide a law with stricter guidelines for rules and regulations we promulgated." Legislative Record, House, March 12, 1976, p. 442.

Thus, only a clarification of the Board of Registration in Medicine's authority was intended, and the limitations adopted by Chapter 680 only apply to physicians' assistants operating under the authority of physicians who are subject to the jurisdiction of the Board of Registration in Medicine. The authority of the Board

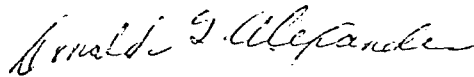
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of Osteopathic Examination and Registration over physicians' assistants who operate under the authority of physicians who are subject to the jurisdiction of the Board of Osteopathic Examination and Registration remains the same. Parenthetically, it should be noted that it may be appropriate to consider clarifying § 2594-A in the same manner as Chapter 680 clarifies the language of § 3270-A in order to avoid the problems of generality which were cited in support of the amendments adopted by Chapter 680.

Very truly yours,



DONALD G. ALEXANDER
Deputy Attorney General

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