



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN
ATTORNEY GENERAL

January 4, 1968

Hon. J. Manley Head
Executive Secretary
Texas Board of Chiropractic
Examiners
Downtown Office Building
300 E. 11th St., Suite L-7
Austin, Texas 78701

Opinion No. M-181

Re: Whether under Article 4590c, V.C.S., the Texas State Board of Examiners in the Basic Sciences has the authority or discretion to deny a certificate of proficiency to an applicant who presents a transcript of credits showing satisfactory completion of sixty or more semester hours of college credits as prescribed by Section 16-a of the Act and who is otherwise qualified by law, and related questions.

Dear Mr. Head:

In connection with the current procedures on issuance of certificates, the Texas State Board of Examiners in the Basic Sciences has advised you that it will be the policy of said Board to deny certification by waiver when the application is based on college work carried simultaneously with, or in addition to a normal course of study in a professional school.

In your request for an opinion from this office you state the following:

"Upon studying Section 16a of the Minimum Standards Law, under which the Texas State Board of Examiners in the Basic Sciences operate and codified as 4590c, V.T.C.S., we find the following language:

"Sec. 16-a. The Board shall issue a certificate of proficiency to any person

who is otherwise qualified by law and who shall present to the Board a transcript of credits certifying that such person has satisfactorily completed sixty (60) semester hours or more of college credits at a college or university which issues credits acceptable to the University of Texas leading toward a Bachelor of Arts or a Bachelor of Science Degree; said college or university credits shall include the satisfactory completion of all the subjects enumerated in Section 1 of this Act with an average of seventy-five percent (75%) or better in each of such courses; and the University of Texas shall offer at the Main University at Austin, Texas, beginning with the fall semester 1949, courses in each of the enumerated subjects.'

"Heretofore, certificates of proficiency have been granted to students upon proper presentation of their credentials as required by law. Such certificates were then presented to the Texas Board of Chiropractic Examiners prior to examination as required by law.

"My questions are as follows:

"(1) Under the statute, does the Texas State Board of Examiners in the Basic Sciences have the authority to withhold, challenge, delay, or deny a certificate of proficiency to any person who is otherwise qualified by law and who presents to the Board transcripts of credits certifying that such person has satisfactorily completed sixty (60) semester hours or more of college credits acceptable to and approved by the University of Texas?

"(2) As used in Section 16a, do the words 'satisfactorily' and 'satisfactory' apply to

the University of Texas or do they relate and apply to the Texas State Board of Examiners in the Basic Sciences?

"(3) Does the Texas State Board of Examiners in the Basic Sciences have the legal right or authority to reject, modify, change, withhold, delay, or refuse to grant a person a certificate of proficiency in the Basic Sciences when such person has complied with the requirements as stated in Section 16a of the Minimum Standards Law, codified as 4590c, V.T.C.S.?"

Section 4 of Article 4590c, Vernon's Civil Statutes, provides that the Board shall make such rules and regulations, not inconsistent with the law, as it deems expedient to carry this Act into effect. It is not the function of the Board to enlarge or modify the statutory requirements laid down by the legislature in Article 4590c, Section 16-a. In 1 Tex.Jur.2d 652, Administrative Law, Section 6, it is stated:

"Generally the powers of an administrative agency are derived entirely from legislative enactment. The agency has only such powers as are expressly conferred on it by statute together with those necessarily implied from powers and duties expressly given or imposed.

"Although a statute conferring administrative authority will generally be liberally construed, the agency must not go beyond the clear intent of the legislature. It may not enlarge its powers by its own orders, or exercise a power expressly conferred not upon it, but upon another agency or arm of government."

The rules and regulations adopted by an agency must be within the clear intent of the statute, and not in excess of the powers delegated. 1 Tex.Jur.2d 657, Administrative Law, Section 11. The language of Article 4590c neither expressly nor

impliedly gives the Board any discretionary powers to impose requirements upon applicants other than those requirements set out in that statute itself.

We answer the three questions contained in your letter as follows:

(1) Under the provisions of Section 16-a of Article 4590c, the Texas State Board of Examiners in the Basic Sciences does not have the authority to withhold, challenge, delay, or deny a certificate of proficiency to any person who is otherwise qualified by law and who presents to the Board transcripts of credits certifying that such person has satisfactorily completed sixty (60) semester hours or more of college credits acceptable to and approved by the University of Texas.

(2) As used in Section 16-a of said Article 4590c, the words "satisfactorily" and "satisfactory" apply to the University of Texas and not to the Texas State Board of Examiners in the Basic Sciences.

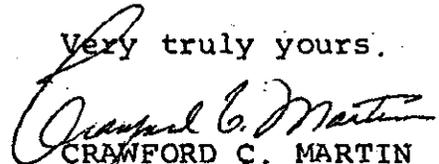
(3) The Texas State Board of Examiners in the Basic Sciences does not have the legal right or authority to reject, modify, change, withhold, delay, or refuse to grant a person a certificate of proficiency in the basic sciences when such person has complied with the requirements as stated in Section 16-a of Article 4590c.

S U M M A R Y

The Texas State Board of Examiners in the Basic Sciences does not have the authority or discretion to deny a certificate of proficiency to an applicant who is otherwise qualified by law and who shall present to the Board a transcript of credits showing satisfactory completion of sixty (60) or more semester hours of college credits as prescribed by Section 16-a of Article 4590c, Vernon's Civil Statutes.

Hon. J. Manley Head, page 5 (M-181)

Very truly yours.


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Jack Sparks
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Hawthorne Phillips, Chairman
Kerns Taylor, Co-Chairman
W. V. Geppert
Ralph Rash
Neil Williams
Lonny Zwiener
Roger Tyler

A. J. CARUBBI, JR.
Staff Legal Assistant