

Certification for licensure

Number: AGO 83-99

Date: January 06, 1998

Subject:
Certification for licensure

The Honorable Fred Roche
Secretary
Department of Professional Regulation
130 North Monroe Street
Tallahassee, Florida 32301

RE: DEPARTMENT OF PROFESSIONAL REGULATION--Post-examination certification of candidates' licensure qualifications by certain regulatory boards not required

Dear Secretary Roche:

You have asked for an opinion on the following issue:

Does s. 455.213, F.S., require three boards within the Department of Professional Regulation, the Board of Nursing, the Board of Medical Examiners, and the Board of Osteopathic Medical Examiners, to certify applicants' qualifications for licensure after successful completion of licensure examinations, in addition to such certification prior to the examination?

You state that the Auditor General has expressed a concern that s. 455.213, F.S., as amended by s. 9 of Ch. 83-329, Laws of Florida, requires all the regulatory boards within your department to certify all applicants for licensure after the examination is passed. You note that based on the requirements of their practice acts, these three regulatory boards certify the qualifications of candidates prior to their taking the examination but not afterwards. Section 455.213, as amended, provides in subsections (1) and (2):

"(1) Any person desiring to be licensed shall apply to the department in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the department.

(2) Before the issuance of any license, the department may charge an initial license fee not to exceed \$200 as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule."

Section 455.213, F.S., as amended, should be construed with and in harmony with ss. 455.311, 459.006, and 464.008, F.S., respectively, which are *in pari materia*. See *Wakulla County v. Davis*, 395 So.2d 540 (Fla. 1981); *Mann v. Goodyear Tire and Rubber Company*, 300 So.2d 666

(Fla. 1974).

Section 458.311, F.S. provides, in paragraphs (1) and (5):

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(a) Completed the application form and remitted an approved examination fee not to exceed \$250 as set by the board.

(b) Graduated from a medical school or college recognized and approved by an accrediting agency recognized by the United States Office of Education.

(c) Completed an approved internship of at least 1 year or at least 5 years of licensed practice.

* * * * *

(5) Each applicant who successfully passes the examination and meets the requirements of this chapter shall be entitled to be licensed as a physician, with rights as defined by law. . . ."

Section 459.006, F.S., provides:

"(1) Any person desiring to be licensed as an osteopathic physician shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(a) Completed the application form and remitted an examination fee not to exceed \$250 as set by the board.

(b) Submitted proof that he is 18 years of age or over and a graduate of a college of osteopathic medicine recognized and approved by the American Osteopathic Association.

(c) Completed 3 years of preprofessional education and a resident internship of not less than 12 months in a hospital approved for this purpose by the Bureau of Hospitals of the American Osteopathic Association. This requirement may be waived for applicants who matriculated in a college of osteopathy during or before 1948.

(2) Each applicant who successfully passes the examination and meets the requirements of this chapter shall be entitled to be licensed as an osteopathic physician, with rights as defined by law. . . ."

Section 464.008, F.S., provides:

"(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted an examination fee set by the board not to exceed \$100.

(b) Is in good mental and physical health, a recipient of a high school diploma or the equivalent, and a graduate of an approved program for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(c) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable."

I understand that each of these boards uses a national examination, and none of the boards is involved in writing, grading, or administering the examination. Your department receives notification from the national organizations concerning which candidates passed, based upon passing scores set by rules of the respective boards.

Based on the foregoing considerations and statutory provisions, I therefore conclude that the provisions of ss. 455.213, 458.311, 459.006, 464.008, F.S., read together, do not require (or prohibit) a second board action to certify an applicant's qualifications for licensure after successful passage of the examination, when the board has previously certified that all licensure requirements *except* a passing examination score were met.

Sincerely,

Jim Smith
Attorney General

Prepared by:

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