

ATTORNEY GENERAL

licensing jurisdiction. *See e.g.* R. 1:21-1(a), requiring a New Jersey-licensed attorney either to be domiciled and maintain a bona fide office for the practice of law in New Jersey or, if not domiciled in New Jersey, maintain within the State his principal office for the practice of law; *Wilson v. Wilson*, 416 F. Supp. 984, 986-988 (D. Ore. 1976) (3 judge court), *aff'd mem.* 430 U.S. 925, 97 S. Ct. 1540, 51 L. Ed. 2d 768 (1977), holding that an applicant to the bar may be required to state his intent to be a resident at the time of admission; *Lipman v. Van Zant*, 329 F. Supp. 391, 401-404 (N.D. Miss. 1971) (3 judge court), holding that a state may require residency at the time of the bar examination for character investigation. Consequently, were the sort of residency and practice requirements set forth in N.J.S.A. 45:5-7 imposed upon *all* podiatry licensees, whether licensed by endorsement or examination, there would be no constitutional infirmity. As the matter stands, however, one category of licensees—those licensed through endorsement of sister state licenses—has been singled out, and therefore some characteristic which is unique to podiatry licensees by endorsement and which engenders a particular kind of regulatory difficulty must be identified in order to justify the classification. Having been unable to identify any reasonable basis for this classification, we conclude that the statutory scheme denies endorsement licensees due process and equal protection of the law, *U.S. Const.*, Amend. XIV.

You are advised therefore that that portion of N.J.S.A. 45:5-7 which conditions the licensure of podiatrists through endorsement of licenses issued in other jurisdictions upon the podiatrist's establishing legal residence in New Jersey and practicing only in the State is unconstitutional and should not be enforced.

Very truly yours,
JOHN J. DEGNAN
Attorney General

By: BERTRAM P. GOLTZ, JR.
Deputy Attorney General

December 5, 1980

T. EDWARD HOLLANDER, *Chancellor*
Department of Higher Education
225 West State Street
Trenton, New Jersey 08625

FORMAL OPINION NO. 25—1980

Dear Chancellor Hollander:

You have asked whether the Board of Higher Education has the statutory authority to regulate foreign medical schools operating in New Jersey. The reason for your inquiry is that a number of foreign medical schools have contracted with New Jersey hospitals to permit their matriculating students to observe and conduct clinical procedures in those hospi-

FORMAL OPINION

tals. This educational experience is credited by the medical school as satisfactory completion of the students' requisite seventh and eight semesters of clinical instruction. For the following reasons, you are hereby advised that the Board of Higher Education does not have the authority to license foreign medical schools nor regulate their course of instruction in the state.

The Board of Higher Education has been vested with the general authority to supervise the system of higher education and to regulate institutions of higher education operating in the state. N.J.S.A. 18A:3-13. The Board is also required to license institutions of higher education operating in the state. N.J.S.A. 18A:68-6. N.J.S.A. 18A:68-3 prohibits the offering of instruction leading toward the attainment of a degree without a license obtained by the Board of Higher Education. That statute provides:

No corporation shall furnish instruction or learning in the arts, sciences, or professions for the purposes of admitting any person to the grade of a degree, or shall confer or participate in conferring a degree, giving to any person a diploma of graduation or of proficiency in a course of study, in learning, or in scientific arts or methods, within this state, until it shall have filed a certified copy of its certificate of incorporation with the board of higher education and obtained from such board a license to carry on the business under rules as the board of higher education may prescribe. [Emphasis supplied.]

Similarly, N.J.S.A. 18A:68-6 prohibits the award of collegiate degrees without approval by the Board. This licensing scheme concerning collegiate institutions has been upheld as an appropriate area of regulation by the Board of Higher Education. *Shelton College v. State Board of Education*, 48 N.J. 501 (1967).

However, despite the general authority conferred on the Board of Higher Education to regulate institutions of higher education, there is a separate regulatory enactment dealing with medical schools. N.J.S.A. 18A:68-12 provides:

No school or college shall be conducted within this state for the purpose of training or qualifying its students to practice medicine or surgery or any branch thereof or any method for the treatment of disease or any abnormal physical conditions without first securing from the state board of medical examiners a license authorizing it so to do.

The relevant statutory framework also contains a detailed legislative directive concerning the method by which such licensure shall occur. The statutes concern the information which the medical school must supply to the medical examiners in support of a licensing request, N.J.S.A. 18A:68-13, the nature of the branch of medicine which is to be taught, N.J.S.A. 18A:68-15, the term of any such license, N.J.S.A. 18A:68-16, and the penalty for violation of these statutory provisions, N.J.S.A. 18A:68-18.

ATTORNEY GENERAL

It is a familiar principle of statutory construction that when two enactments deal with the same subject, one in a more general manner and the other in specific and concrete terms, the latter will supersede the former and be controlling in a given situation. *State v. Hotel Bar Foods*, 18 N.J. 115 (1955); *In Re Salaries for Probation Officers of Hudson County*, 158 N.J. Super. 363 (App. Div. 1978). The Board of Higher Education has been authorized in general terms to regulate the offering of higher education in the professions. On the other hand, the legislature in specific and comprehensive terms has placed the responsibility for the regulation and licensure of medical training upon the Board of Medical Examiners.¹ Therefore, it may reasonably be assumed the legislature intended that exclusive jurisdiction inheres in the Board of Medical Examiners as it pertains to the licensure of medical schools. This is further supported by another related rule of statutory construction that a specific later enacted statute would generally govern over an earlier more general one. *Cirangle v. Maywood Board of Education*, 164 N.J. Super. 595 (Law Div. 1979). In this case, the specific statutory scheme with respect to the regulation of medical education was enacted more than eight years after the Board of Education (now Board of Higher Education) was given general authority over institutions of higher education.

For these reasons, it is clear that while the Board of Higher Education has been given supervisory authority over instruction in higher education generally, the Board of Medical Examiners is the exclusive state agency to exercise regulatory control over medical schools. You are therefore advised that the Board of Higher Education does not have the authority to license and regulate medical schools conducted within the state.²

Very truly yours,
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Attorney General

By: ROBERT A. FAGELLA
Deputy Attorney General

1. L. 1924, c. 184, was entitled "an act for the licensing of schools and colleges for the purpose of training or qualifying students to practice medicine . . ."

2. We note that the Board of Higher Education has been given express supervisory authority over the determination of the educational curriculum and program of the College of Medicine and Dentistry. N.J.S.A. 18A:65G-6. The regulatory authority which the Board exercises over the College of Medicine and Dentistry is in no way affected by this opinion. Moreover, we understand that the Department of Higher Education in exercising this authority has developed significant expertise for the review of academic degree programs in the area of medical education. It would, therefore, be appropriate for the Board of Medical Examiners to obtain the assistance of the Department of Higher Education in carrying out its regulatory functions in the area of medical education.
