

LETTER OPINION
95-L-69

March 15, 1995

Mr. Rolf P. Sletten
Executive Secretary
North Dakota State Board of
Medical Examiners
418 East Broadway Avenue
Suite 12
Bismarck, ND 58501

Dear Mr. Sletten:

Thank you for your letter requesting an opinion on whether an individual licensed to practice dentistry in the state of North Dakota is authorized to perform blepharoplasties, rhinoplasties, and septoplasties. "Blepharoplasty" is defined as "a plastic operation on an eyelid esp. to remove fatty or excess tissue." Webster's Medical Desk Dictionary 80 (1986). "Rhinoplasty" is defined as "plastic surgery on the nose usu. for cosmetic purposes -- called also nose job." Id. at 620. "Septoplasty" is defined as "surgical repair of the nasal septum." Id. at 648.

It is my understanding that a dentist may be certified as an oral and maxillofacial surgeon by the American Board of Oral and Maxillofacial Surgery (ABOMS), a national certifying board recognized by the American Dental Association Council on Dental Education. The specialty of oral and maxillofacial surgery, as defined by the American Dental Association, is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial regions. "Maxillofacial" pertains to jaws and the face. Oral and maxillofacial surgery is a recognized specialty in the practice of dentistry. One trained in oral and maxillofacial surgery is trained to perform blepharoplasties, rhinoplasties, and septoplasties. See AAOMS/ABOMS Statement on the Training and Practice of Oral and Maxillofacial Surgery (April 1991). Thus, the question raised is whether the "practice of dentistry" in North Dakota includes the specialty of maxillofacial surgery.

"Practice of dentistry" is defined in N.D.C.C. ? 43-28-01(6).

"[P]ractice of dentistry" means and includes examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease,

Mr. Rolf P. Sletten
March 15, 1995
Page 2

disorder, deficiency, deformity, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae and soft tissues, and the diagnosis, the surgical and adjunctive treatment of the diseases, injuries, and defects of the human jaw and associated structures.

(Emphasis added.) Relying upon the underscored language, the North Dakota State Board of Dental Examiners, the state agency statutorily responsible for enforcing N.D.C.C. ch. 43-11, has interpreted this definition to include maxillofacial surgery. See Letter from Wayne Mattern D.D.S. to Doug Bahr (Jan. 25, 1995). The courts, and thus this office, should respect and defer to the Board of Dental Examiner's interpretation if it is reasonable. See Turnbow v. Job Service North Dakota, 479 N.W.2d 827, 828, 830 (N.D. 1992); True v. Heitkamp, 470 N.W.2d 582, 587 (N.D. 1991).

"Associated structures" is not defined in N.D.C.C. ch. 43-28. It must therefore be understood in its ordinary sense. N.D.C.C. ? 1-02-02. As ordinarily understood, "associated" means connected to or joined together, linked. Webster's Medical Desk Dictionary 53; The American Heritage Dictionary 135 (2d coll. ed. 1991). The eye socket, nose and nasal cavity would not ordinarily be understood to be a structure connected to or associated with the jaw. Therefore, it is my opinion that surgery on the "human jaw and associated structures" would not include surgery on the eye socket and nose.

I recognize that some jurisdictions recognize maxillofacial surgery as the practice of dentistry. Many of those jurisdictions, however, specifically include maxillofacial surgery as a specialty of dentistry. See, e.g., Fla. Stat. ? 466.003(3) (1993) (statutory definition of dentistry specifically includes "oral-maxillofacial surgery and any procedures adjunct thereto"); Ill. Ann. Stat. ch. 225, para. 25/4 (Smith-Hurd 1993) (specifically includes oral and maxillofacial surgery as a specialty of dentistry); Mich. Comp. Laws ? 333.16608 (provides for specialty certification in oral and maxillofacial surgery to licensed dentists). Unlike the above statutes, N.D.C.C. ? 43-28-01 does not specifically include maxillofacial surgery as the practice of dentistry. Absent such specific direction from the Legislature, subsection 6 of section 43-28-01 cannot be read to authorize dentists to perform plastic surgery on the nose and eyelid.

Mr. Rolf P. Sletten
March 15, 1995
Page 3

In rendering this opinion I recognize that the dental profession and the other health professions are constantly changing and that the scope of their practice may expand over the years. Nonetheless, the North Dakota Legislature determines the scope of practice of all licensed health care professions. I believe specific legislative authority would be needed to include maxillofacial surgery within the definition of the practice of dentistry under North Dakota law.

Sincerely,

Heidi Heitkamp
Attorney General

DAB/mh