

N.D.A.G. Letter to Robb (May 5, 1986)

May 5, 1986

Ms. Jane S. Robb, Director
North Dakota State Laboratories
Lock Box 937
Bismarck, ND 58502

Dear Ms. Robb:

Thank you for your letter of March 26, 1986, concerning a state food commissioner and chemist for the State Laboratories Department.

You have inquired as to whether or not your department would be in violation of N.D.C.C. §19-01-04 if you appointed an acting state food commissioner and chemist who has a "strong chemistry background but actually possesses a degree in biology."

The term "competent" as used in N.D.C.C. §19-01-04 requires that the person appointed as acting state food commissioner and chemist possess the qualifications essential to the prompt, efficient, and honest performance of the duties pertaining to the possession to be filled. I construe the provisions of N.D.C.C. §19-01-04 to require the assistant director, who will be state food commissioner and chemist, to be qualified in the field of chemistry. If the person you desire to hire as assistant director possesses the qualifications of a chemist in the ordinary sense and meaning of that term, an appointment of such person would be within the intent of N.D.C.C. §19-01-04. This is a factual question which must be determined by the you and Laboratories Commission.

I see nothing within N.D.C.C. §19-01-04 which would prohibit the appointment of an individual as interim assistant director pending final appointment. Duties normally undertaken by the assistant director could be assigned to that individual or others until a permanent appointment is made by the Laboratories Commission.

I trust that this has answered you inquiry.

Sincerely,

Nicholas J. Spaeth

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