ATTORNEY GENERAL OPINION NO. 75-348

Mr. Dennis W. Moore
Attorney, State Board of Nursing
5809 Reeds Road
Mission, Kansas 66202

Re: Mental Health Technicians--Licenses--Eligibility

Synopsis: An applicant for licensure as a mental health technician who is employed in the State of Kansas in any position, whether related to the field or otherwise, on July 1, 1974, is eligible to satisfy the academic requirements of K.S.A. 1974 Supp. 65-4203, as amended by ch. 333, L. 1975, by presenting evidence of experience in lieu thereof.

Dear Mr. Moore:

K.S.A. 1974 Supp. 65-4203 as amended by ch. 333, L. 1975, prescribes qualifications for licensure as a mental health technician. Subsection (b) states in pertinent part thus:

"A license to perform as a mental health technician may only be issued by the board to an applicant: (1) Meeting the qualifications set forth in (a) [including satisfactory completion of an approved course in mental health technology] and who shall have successfully passed a written examination in mental health technology as prescribed and conducted by the board; or

(2) to any person who is employed in the state of Kansas on the effective date of this act who files a written
application within one (1) year there-
after and who, in lieu of presenting
evidence of completion of the curriculum
of an approved course in mental health
technology, presents evidence that he has
practiced as a mental health technician
for at least one year within the five-year
period immediately preceding the date of
his application."

Thus, one year of practice as a mental health technician, completed
during the five-year period immediately preceding the date of
application, is accepted in lieu of completion of the academic
requirements of course completion in the field. The question you
pose is whether the word "employed" is unqualified, and whether the
requirement that the applicant be "employed in the state of Kansas"
on the effective date of the act, July 1, 1974, is satisfied by any
employment whatever, or whether it refers to the later requirement
that the applicant must have been employed as a mental health
technician for at least one year within the five-year period
immediately preceding the date of application, or as a second alter-
native, whether it merely requires that on July 1, 1974, the appli-
cant have been employed as a mental health technician in addition
to or as a part of the one year of experience, in order to be
entitled to waiver of the academic requirements.

At first reading, one may quite reasonably assume that the require-
ment that the applicant be employed in the State of Kansas on July
1, 1974, the effective date of the act, itself must bear some
reasonable relationship to eligibility for licensure as a mental
health technician, and that accordingly, the requirement of
employment on that date impliedly assumes employment as a mental
health technician. A further reading of the section suggests,
however, that there is little justification for such an implied
qualification of the reference to July 1, 1974, employment. The
section expressly, of course, requires evidence of practice as a
mental health technician for at least one year within the five-
year period immediately preceding the date of application, which
practice must have been performed in Kansas. Completion of this
requirement at any time during the immediate five-year period
preceding the date of application satisfies the requirement in
lieu of the academic requirements for licensing. There is little
justification for implying a requirement that the applicant be
engaged in this practice precisely on July 1, 1974. Similarly,
there is little basis for implying a requirement that the applicant
be engaged in work in an allied field on precisely that date, for
such a requirement bears no relationship whatever to the statutory
prerequisites for licensure.
In view of all these considerations, we cannot but construe the statute strictly, regarding the literal requirement of employment in the state, in whatever position, on July 1, 1974, as sufficient for eligibility for satisfaction of the academic requirements by presenting evidence of the requisite experience in lieu thereof. Obviously, the requirement of employment in any position, whatever its nature, is without any material relationship to the subsequent prerequisites in the paragraph. However, the alternative implied qualifications which might be inferred from the matter of July 1, 1974, employment are equally unrelated to the other requirements for eligibility. This being the case, the statute should be construed strictly according to its terms, and we cannot but conclude that if an applicant is employed in whatever position on July 1, 1974, he or she is eligible to satisfy the academic requirement by presenting satisfactory evidence of the experience required by the statute.

Yours very truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj