



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

September 3, 1975

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

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application within one (1) year thereafter 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."

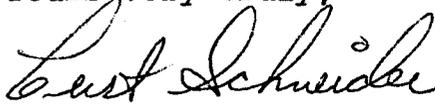
Thus, one year of practice as a mental health technician, completed during the five-year period immediately preceding the date of application, is accepted in lieu of completion of the academic requirements of course completion in the field. The question you pose is whether the word "employed" is unqualified, 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 alternative, whether it merely requires that on July 1, 1974, the applicant 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 requirement 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.

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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