September 29, 1978

ATTORNEY GENERAL OPINION NO. 78-309

Mr. Ray E. Showalter
Executive Administrator
Kansas State Board of Nursing
503 Kansas Avenue
Topeka, Kansas 66603

Re: Public Health—Examination, Licensure and Regulation of Nursing—Exemption to Licensure Requirements

Synopsis: The Kansas Nurse Practice Act does not require the licensure of individuals supplied by the American National Red Cross who engage in nursing activities while providing relief in mitigating the effects of a natural disaster.

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Dear Mr. Showalter:

You request the opinion of this office whether nurses provided by the American National Red Cross to assist Kansas residents during a disaster operation must be licensed by the Kansas Board of Nursing prior to engaging in such activities.

The provisions of K.S.A. 1977 Supp. 65-1114 declare it unlawful for any person to practice either professional or practical nursing as those terms are defined at K.S.A. 1977 Supp. 65-1113, "... unless such person has been duly licensed and registered under the provisions of this act." K.S.A. 1977 Supp. 65-1124 provides exception to this licensure requirement under certain circumstances. Of particular importance to the question here presented is the exemption stated thus: "No provision of this law shall be construed ... as prohibiting nursing assistance in the case of an emergency ..." K.S.A. 1977 Supp. 65-1124. Thus a license would not be required where the nursing activity was conducted in an emergency situation.
Thus the issue becomes that of determining whether a disaster situation falls within the purview of the term "emergency." The Act does not define "emergency." Absent such provision it has long been a rule of statutory construction in this jurisdiction that "... words in common use are to be given their natural and ordinary meaning ..." Roda v. Williams, 195 Kan. 507, 511, 407 P.2d 741 (1965); State ex rel. v. City of Overland Park, 215 Kan. 700, 712, 713, 527 P.2d 1340 (1974). See generally, 2A Sutherland, Statutory Construction, § 47.28 (4th ed. 1973). Webster's New Third International Dictionary (1966) defines "emergency" thus:

"... an unforeseen combination of circumstances or the resulting state that calls for immediate action... a usually distressing event or condition that can often be anticipated or prepared for but seldom exactly foreseen."

It appears reasonable to conclude that the legislature by employing the term "emergency" clearly intended to encompass such situations as would be considered natural disasters, e.g., earthquakes, floods, and tornadoes.

Accordingly, it is the opinion of this office that individuals provided by the American National Red Cross who otherwise practice professional nursing or practical nursing do not need to be licensed pursuant to the Kansas Nurse Practice Act where such activities are conducted as part of relief assistance given to help mitigate the effects of a natural disaster.

Yours truly,

[Signature]
CURT T. SCHNEIDER
Attorney General

CTS:JPS:kJ