



STATE OF KANSAS

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ATTORNEY GENERAL

October 11, 1978

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ATTORNEY GENERAL OPINION NO. 78-327

The Honorable Lloyd Buzzi  
State Representative  
Post Office Box 3247  
Rural Route 4  
Lawrence, Kansas 66044

Re: Child Care--Licensing--Constitutionality

Synopsis: Licensure of persons for child care is not unconstitutional by reason of any interference with parental rights or any asserted personal freedom of choice to submit a child to the care of unlicensed persons.

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Dear Representative Buzzi:

At the request of a constituent, you request my opinion concerning the constitutionality of laws providing for the licensing of persons who provide care for children, such as babysitters. You advise that the concern which has been expressed to you is principally that licensing requirements interfere unconstitutionally with the freedom of choice and other personal rights of the parent respecting the child's care.

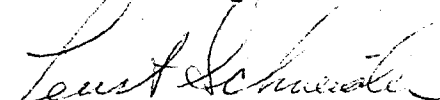
The state has an obvious interest in providing minimum standards to be met by persons who hold themselves out to the public as available to care for children, and it clearly has the power to prescribe and to enforce those standards. Licensure is the principal means of doing so, and it is the means adopted by the state. I know of no decision of the Kansas Supreme Court or of any court in any other state, which holds that a state's statutory scheme for the licensure of child care personnel or facilities interferes with parental rights, freedom of choice, or any other claimed

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personal privileges to submit children to the care of other than licensed persons. Child care is but one of many occupations which the state has undertaken to regulate by licensure. Licensing of the practitioners of any occupation, of course, in some negligible manner restricts the freedom of the public to patronize unlicensed practitioners. Where the state has enacted and enforced a valid regulatory and licensure scheme, in the interests of the public safety, health and general welfare, as here, I have found no reported court decision whatever which supports the argument that members of the public have some constitutional or other personal right to patronize the professional or personal services of practitioners who are required to be but are not licensed.

Insofar as the concerns which have been expressed to you and which you have related to me, I cannot find that the Kansas statutory scheme for the licensure of child care is in any way unconstitutional by reason of any interference with any asserted parental right or freedom of choice.

Yours' truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj