



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

May 22, 1980

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ATTORNEY GENERAL OPINION NO. 80-110

Bette F. McCart  
Register of Deeds, Sedgwick County  
Room 415, Sedgwick County Courthouse  
Wichita, Kansas 67203

Re: Counties and County Officers--Register of Deeds--  
Recordation of Clinical Hypnotist Certificate

Synopsis: The Register of Deeds is limited by law as to the type of instruments he or she may accept for filing and recording. As there is no statutory authority for the office to record certificates of achievement from professional schools or training clinics, they should not be accepted for filing. Cited herein: K.S.A. 12-705b, 12-729, 17-6003, 19-1204, 19-2633, 58-201, 58-204, 58-2101, 58-2221, 79-2608, K.S.A. 1979 Supp. 84-9-401.

\* \* \*

Dear Ms. McCart:

As Register of Deeds for Sedgwick County, you have requested our opinion concerning whether or not your office should accept certain certificates which have been presented to you for filing. Specifically, you indicate that you have received numerous certificates from the Path Foundation which have been issued by it to individuals who have completed the Foundation's "course of study" in "clinical hypnosis." The certificates, in the form of diplomas, identify the "student," are signed by the "instructor" and the Path Foundation Administrator, and are notarized. While you indicate that you have accepted some of these certificates for filing in the past, you wish to know whether you are under a legal duty to continue to do so.

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The duties of your office are set out at K.S.A. 19-1204, which states:

"The register of deeds shall have custody of and safely keep and preserve all the books, records, deeds, maps, papers and microphotographs deposited or kept in his office; he shall also record, or cause to be recorded, in a plain and distinct handwriting, in suitable books to be provided and kept in his office, all deeds, mortgages, maps, instruments and writings authorized by law to be recorded in his office and left with him for that purpose, and shall perform all other duties required of him by law." (Emphasis added.)

Therefore, our inquiry must be: Is the Register of Deeds authorized by statute to accept for recording the certificates issued by the Path Foundation?

The principle responsibility of the Register of Deeds is, as the title would suggest, the recordation of documents involving interests in land. K.S.A. 58-2221 requires the Register of Deeds to file, when properly certified, "every instrument in writing that conveys real estate, any estate or interest created by an oil and gas lease, or whereby any real estate may be affected, proved or acknowledged." Other duties involving interests in land are prescribed by statutes concerning the filing of land patents (K.S.A. 58-2101), plats of land, both in subdivisions inside (K.S.A. 12-705b) and outside (K.S.A. 19-2633) city limits, and planned unit developments (K.S.A. 12-729). However, as indicated by K.S.A. 19-1204, there exist other duties of the office required by law which do not necessarily involve interests in land. Some of these include the filing of tax liens (K.S.A. 79-2608), mechanic's and agricultural liens (K.S.A. 58-201, 58-204), security interests created under the Uniform Commercial Code (K.S.A. 1979 Supp. ~~84-9-401~~) and articles of incorporation for corporations whose registered office is located in the county (K.S.A. 17-6003).

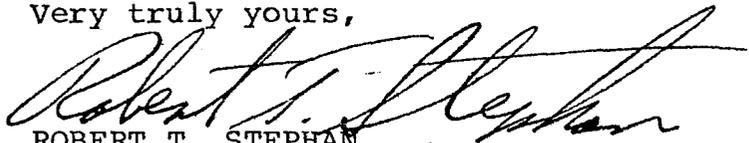
While the above-cited statutes indicate that the office of Register of Deeds has had many other functions assigned to it beyond the recording of interests in land, we are not aware of any statute which empowers or requires the office to record the type of document you describe.

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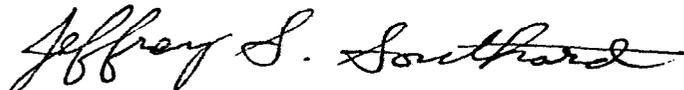
Although it could be argued that no harm is done by the acceptance and recording of the Path certificates, it should be noted that for the Register of Deeds to do so would be an expansion of powers granted by the Legislature, and hence impermissible in the absence of an ordinance of the County directing such recording. Additionally, the practical effect of accepting and recording such certificates is to give the implicit approval of your office to them, thus validating them in the eyes of the public. While we do not express any opinion as to the validity of the training offered by the Path Foundation, to begin the practice of recording certificates of this kind would encourage similar requests for filing by all manner of professional schools and training centers, whether bona fide or not. As your office would not have the authority, personnel or time to investigate the background of all these "issuing authorities," the potential for abuse would be great.

Therefore, it is our opinion that the Register of Deeds is limited by law as to the types of instruments he or she may accept for filing and recording. As there is no statutory authority for the office to record certificates of achievement from professional schools or training clinics, they should not be accepted for filing.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:phf