



STATE OF KANSAS

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December 31, 1980

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ATTORNEY GENERAL OPINION NO. 80- 270

Mr. Donald C. Ramsay  
Associate General Counsel  
College of Health Sciences and Hospital  
University of Kansas  
39th and Rainbow Blvd.  
Kansas City, Kansas 66103

Re: State Boards, Commissions and Authorities--Behavioral  
Sciences Regulatory Board--Practice of Psychology by  
Persons Employed by State Agencies

Synopsis: A person who does not possess a valid certificate to practice psychology in this state may engage in the practice of psychology while in the employ of any state agency. The practice must be a part of the person's salaried position for the agency, and the practice must be performed solely on behalf of the employer agency. The employee's work may include psychological testing and psychotherapy, and the employee may use an official title which incorporates the the word "psychology" or other form of that word, e.g., "staff psychologist." The employee may only use such title in connection with that employment if he or she does not possess a valid certificate to practice psychology in this state. Cited herein: K.S.A. 74-5301, 74-5302, as amended by L. 1980, ch. 242, §11, 74-5340, 74-5344 as amended by L. 1980, ch. 242, §28.

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Dear Mr. Ramsay:

You request our opinion on three questions relating to the Certification of Psychologists Act (hereinafter, the "Certification Act"), K.S.A.

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74-5301 et seq., as amended by L. 1980, ch. 242. Specifically, you inquire:

"1. May a person who does not possess a valid certificate to practice psychology in this state engage in the practice of psychology, including rendering psychological services to the public such as testing or psychotherapy, if such person is employed and paid a salary for that purpose by a state agency?

"2. If the person is permitted, . . . to practice psychology without a certificate as a salaried employee of a state agency, may the agency bill the patients or clients (or their insurance carrier) for the services rendered by such a person?

"3. May a person practicing psychology as a salaried employee of a state agency without a certificate, hold him/herself out as and use the title psychologist?"

As you have correctly noted, in Attorney General Opinion No. 80-220, we concluded that persons who render psychological services in private practice without a valid certificate to practice psychology in this state, including those persons employed by or associated with a licensed physician, are engaged in conduct which violates K.S.A. 74-5340, with some exceptions noted in that opinion. You have further noted one such exception. K.S.A. 74-5344(c), as amended by L. 1980, ch. 242, §28(c), provides as follows:

"Nothing contained in this act [the Certification Act] shall be construed:

. . . .

"(c) to limit the practice of psychology or use of official title on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, . . . insofar as such practice is a part of the duties of such person's salaried position, and insofar as such practice is performed solely on behalf of such person's employer . . . ." (Emphasis added.)

The "practice of psychology" is defined as follows:

"[T]he 'practice of psychology' means the application of established principles of

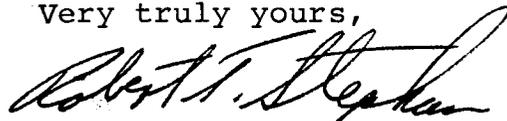
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learning, motivation, perception, thinking, and emotional relationships to problems of behavior adjustment, group relations, and behavior modification, by persons trained in psychology. The application of such use of psychological remedial measures with persons, in groups or individually, having adjustment or emotional problems in the areas of work, family, school, and personal relationships; measuring and testing personality, intelligence, aptitudes, public opinion, attitudes, and skills; and the teaching of such subject matter, and the conducting of research on problems relating to human behavior." K.S.A. 74-5302(a), as amended by L. 1980, ch. 242, §11(a). (Emphasis added.)

The above-quoted sections (L. 1980, ch. 242, §§11,28) answer your questions numbered one and three. Clearly, within the scope of those sections, a person who does not possess a valid certificate to practice psychology in this state may engage in the practice of psychology while in the employ of any state agency. However, the practice is limited: it must be a part of the person's salaried position for the agency, and the practice must be performed solely on behalf of the employer agency. The employee's work may include psychological testing and psychotherapy, and the employee may use an official title which incorporates the word "psychology" or other form of that word, e.g., "staff psychologist." The employee may only use such title in connection with that employment if he or she does not possess a valid certificate to practice psychology in this state.

In answer to your question numbered two, we find nothing in the Certification Act which either expressly authorizes or prohibits the agency from billing the patients or clients served by the agency or the patient's insurance carriers. In our judgment, that practice is merely a matter of contract between the agency and the patient, or the patient's insurer, to be determined by the parties.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General