



STATE OF KANSAS

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February 5, 1982

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ATTORNEY GENERAL OPINION NO. 82- 22

Dean Prochaska, Director
Vocational Education Section
Department of Education
120 East 10th
Topeka, Kansas 66612

Re: Public Health -- Nursing -- Schools of Nursing;
Accreditation of Programs in Area Vocational
Technical Schools and Community Colleges

Snyopsis: K.S.A. 65-1119 requires that any institution desiring to conduct an accredited program in any field of nursing education must meet the standards of the state board of nursing as to curriculum and other matters. In addition to those standards established by statute, there exist administrative guidelines (at K.A.R. 60-2-101) which must also be followed. One such guideline provides that the individual educational institution be approved by the "appropriate state agency." In the case of area vocational technical schools or community colleges, this agency is the state department of education. However, such approval refers to the institution itself, and does not apply to the specific programs of nursing instruction, which must be approved by the state board of nursing. Cited herein: K.S.A. 65-1119, 71-801, 74-1106, K.A.R. 60-2-101.

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Dear Mr. Prochaska:

As director of the Vocational Education Section of the State Department of Education, you request our opinion on a matter involving the accrediting of nursing programs. Specifically, you inquire concerning the "appropriate state agency" to accredit nursing programs being offered in area vocational technical schools and community colleges in this state, i.e.

is it the Board of Nursing or the Department of Education? As the department already accredits programs in such schools on a regular basis, you express concern that a duplication of services will exist if the board is found to possess this authority as to nursing programs.

The administrative regulation you cite, K.A.R. 60-2-101, contains requirements for approved schools of nursing. Paragraph A, which covers accreditation and approval, states that:

"1. Educational institutions shall be approved by the appropriate state agency.

"2. Hospitals and agencies providing facilities for clinical experience shall be licensed or approved by the appropriate groups." (Emphasis added.)

This regulation, it may be noted, was adopted by the Board of Nursing pursuant to K.S.A. 65-1113 et seq. and K.S.A. 74-1106 et seq. The latter act provides for the establishment of the board, and authorizes it [at K.S.A. 74-1106(c)(4)] to

"prescribe curricula and standards for professional and practical nursing programs and mental health technician programs, and provide for surveys of such schools and courses at such times as it may deem necessary. It shall accredit such schools and courses as meet the requirements of the appropriate act and rules and regulations of the board."

Similar authority is given by K.S.A. 65-1119, which provides at subsection (a):

"An accredited school of nursing is one which has been approved as such by the board as meeting the standards of this act, and the rules and regulations of the board. An institution desiring to conduct an accredited school of professional or practical nursing or an educational and training program for advanced registered nurse practitioners shall apply to the board for accreditation and submit satisfactory proof that it is prepared to and will maintain the standards and basic professional nursing curriculum or the required curriculum for practical nursing or the required curriculum for practical nursing or the required curriculum for advanced registered nurse practitioners, as the case may be, as prescribed by this act and by the rules and regulations of the

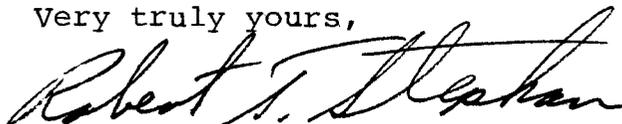
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board. Applications shall be made in writing on forms supplied by the board." (Emphasis added.)

While the Department of Education does possess authority over area vocational technical schools and community colleges, such authority is in the form of a general grant of power, and is not specifically targeted at any individual course of instruction. K.S.A. 71-801 et seq. This is in marked contrast to the language of the above-cited statutes, which deal specifically with the authority of the Board of Nursing to accredit programs of nursing instruction. Although the regulation adopted by the board recognizes this general supervision of the department (e.g. the institution must be approved by the department), approval of instructional programs in nursing has been placed by statute with the board. Any conflict between the statutes which exists as a result of this dual authority must be resolved in favor of the board, in that specific acts control over general ones. Chelsea Plaza Homes Inc. v. Moore, 226 Kan. 430 (1980).

In conclusion, K.S.A. 65-1119 requires that any institution desiring to conduct an accredited program in any field of nursing education must meet the standards of the state board of nursing as to curriculum and other matters. In addition to those standards established by statute, there exist administrative guidelines (at K.A.R. 60-2-101) which must also be followed. One such guideline provides that the individual educational institution be approved by the "appropriate state agency." In the case of area vocational technical schools or community colleges, this agency is the state department of education. However, such approval refers to the institution itself, and does not apply to the specific programs of nursing instruction, which must be approved by the state board of nursing.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:hle