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September 2, 1983

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ATTORNEY GENERAL OPINION NO. 83- 130

Ms. Mary Ann Gabel
Executive Secretary
Behavioral Sciences Regulatory Board
535 Kansas, Room 1102
Topeka, Kansas 66603

Re: State Boards, Commissions and Authorities --
Certification of Psychologists -- Computerized
Psychological Tests

Synopsis: Computer-produced interpretations of psychologi-
cal tests are not "psychological assessments."

Pursuant to subsection (a) of K.S.A. 74-5344,
qualified members of other professional groups
(i.e., professionals who are not certified psy-
chologists) may utilize psychological tests and
interpretations, provided that such work is con-
sistent with their training and with any applicable
professional code of ethics, and provided that
said professionals do not hold themselves out to
the public by any title or description of services
incorporating the words "psychologic," "psychologi-
cal," "psychologist," or "psychology."

The fact that a certified psychologist signs a
report actually produced by a computer does not,
ipso facto, violate K.A.R. 1982 Supp. 102-1-10(b)(7).
However, where a review of the entire report, and
the facts surrounding its preparation and presenta-
tion to the client, indicate that the certified
psychologist "took credit" for the work product
of a computer, it might properly be alleged (in a
proceeding to suspend or revoke a certified psy-
chologist's certification) that there has been a
violation of said regulatory provision.

Persons administering computerized psychological tests who report reactions, responses and behaviors of the test taker are uncertified assistants within the scope of K.A.R. 102-1-11.

K.A.R. 1982 Supp. 102-1-11 is not applicable to computers or computer programs. However, licensed psychologists utilizing computerized psychological tests must comply with the acceptable standards of practice regarding psychological testing generally to comply with K.A.R. 1982 Supp. 102-1-10. Cited herein: K.S.A. 74-5302, 74-5344, K.A.R. 1982 Supp. 102-1-1, 102-1-10, 102-1-11.

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Dear Ms. Gabel:

At the direction of the Behavioral Sciences Regulatory Board, you have requested an opinion involving several questions on the use of computers for administering, scoring and interpreting psychological tests. You ask the following questions:

1. Whether these tests and interpretations constitute psychological tests and psychological assessments.

2. May persons other than certified psychologists administer such tests or utilize these services in Kansas?

3. If a Kansas certified psychologist signs a report actually produced by a computer, does such practice violate K.A.R. 102-1-10 which prohibits a certified psychologist from taking credit for work not personally performed?

4. Does K.A.R. 102-1-11 which pertains to the supervision of uncertified assistants apply to either an assistant hired to administer the test or to the computer?

We understand that there are several types of computer services available. A person may purchase an entire system, i.e., the computer and programs for testing, scoring and interpreting the results, or a person may purchase any or all of the software for his own computer. In addition, there are computer services which will score answer sheets, sending back raw scores which the psychologist then interprets, or the company will compute, score and interpret the test. Many tests are available, such as the Minnesota Multiphasic Personality Inventory (MMPI), the Strong-Campbell Interest Inventory and the Rorschach.

You have first asked whether these tests and interpretations constitute psychological tests and assessments. Although we find no Kansas cases which define "psychological test," the United States District Court for the North District of Georgia defined "Psychological test" in Calhoun v. Members of Bd. of Education, City of Atlanta, 188 F. Supp. 401, 409 (1959) as "any method used for measuring an individual's mental characteristics, as memory, intelligence, emotionality, intelligence (sic) or speed of reaction." Any test, such as the aforementioned MMPI and Strong-Campbell, would fall within this definition and would be a psychological test.

K.S.A. 74-5302 defines the "practice of psychology" as:

"[t]he application of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of behavior adjustment, group relations and behavior modification by persons trained in psychology. The application includes, but is not restricted to counseling and the use of psychological remedial measures with groups or individually, having adjustment or emotional problems in the areas of work, family, school and personal relationships; measuring and testing intelligence, aptitudes, public opinion, attitudes and skills; and the teaching of such subject matter, and the conducting of research or problems relating to human behavior . . ." (Emphasis added.)

K.A.R. 102-1-1(g) defines "psychological assessment" as:

"[t]he use of established psychological tests, procedures, and techniques with the intent of diagnosing or establishing treatment methods to persons having adjustment, mental or emotional problems."

A review of several computer-produced test interpretations shows that the reports provide information on mental, emotional and adjustment problems in the form of diagnoses and in some instances, proposing treatment methods. [See W. Dahlstrom, G. Welsh, L. Dahlstrom, An MMPI Handbook, Vol. I, 307-388 (1982); J. Graham, The MMPI: A Practical Guide, 185-212 (1981)]. At first glance these interpretive reports may appear to be psychological assessments, however, these interpretations lack several qualities of a psychological assessment. An interpretation of a psychological test requires the incorporation of the psychologists' clinical observations of the patient with the test results to ascertain the validity of the test data in a particular case. J. Graham,

The MMPI: A Practical Guide, 186 (1981). This is particularly important in computer-interpretation since a computer program for test interpretation contains only the data which the programmer has included. There is no computerized system which can interpret a profile which differs from the profile types included in its program. J. N. Butcher, Ed., MMPI: Research Developments and Clinical Applications, 108-109 (1969). In such cases, the report may be inaccurate, misleading or incomplete, necessitating input from the psychologist. Further, a psychological assessment usually involves the administration of a battery of tests, clinical interviews and other diagnostic methods, not simply the interpretation of a single test. Id. See also, S. Arieti, Ed., The American Handbook of Psychiatry, Vol. 1, 1181-1199 (1976). Thus, a computer-produced test interpretation, by itself, is not a psychological assessment.

You next ask whether persons other than certified psychologists may administer or utilize these tests and testing services under Kansas law. K.S.A. 74-5344 states in part:

"Nothing contained in this act shall be construed:

"(a) To prevent qualified members of other professional groups such as, but not limited to, ministers, Christian Science practitioners, social workers, and sociologists from doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions so long as they do not hold themselves out to the public by any title or description of services incorporating the words 'psychologic,' 'psychological,' 'psychologist,' or 'psychology';

. . . .

"(f) to restrict the use of tools, tests, instruments or techniques usually denominated 'psychological' so long as the user does not represent himself to be a psychologist." (Emphasis added.)

K.S.A. 74-5302(b) states:

"The term 'represents himself to be a psychologist' means that a person engages in the practice of psychology for a fee, monetary or otherwise, or holds himself out to the public

by any title or description of services incorporating the word 'psychologic,' 'psychological,' 'psychologist' or 'psychology,' and under such title or description offers to render or renders services to individuals, corporations, or the public for a fee, monetary or otherwise." (Emphasis added.)

K.S.A. 74-5344(a) allows other qualified professionals to do work of a psychological nature which is consistent with their training and professional codes of ethics so long as they do not call themselves psychologists or describe their services as psychological. Thus, these professionals may engage in the "practice of psychology," as defined in K.S.A. 74-5302(a), including administration and use of the subject tests, but only within the restrictions of subsections (a) and (f) of K.S.A. 74-5344.

You next ask if a Kansas certified psychologist signs a report actually produced by a computer, does such practice violate K.A.R. 102-1-10. Said regulation provides for the revocation or suspension of a psychologist's certification where the certified psychologist is found guilty of a "wrongful action" or lack of good moral character, and further provides, in pertinent part, as follows:

"The following acts shall be evidence of wrongful actions or lack of good moral character:

. . . .

"(7) Taking credit for work not personally performed." K.A.R. 1982 Supp. 102-1-10(b)(7).

In our judgment, the fact that a certified psychologist signs a computer-produced report does not, ipso facto, violate the above-quoted regulatory provision. The entire report and the circumstances surrounding its preparation and presentation to the client would have to be examined to determine whether it would appear, to the average person, that the certified psychologist was representing the computer-produced report as his own work product. Where a review of the entire report, and the facts surrounding its preparation and presentation to the client, indicate that the certified psychologist "took credit" for the work product of the computer, it properly might be alleged (in a proceeding to suspend or revoke a psychologist's certification) that there has been a violation of the subject regulatory provision.

Finally, you ask whether K.A.R. 102-1-11 which pertains to the supervision of uncertified assistants applies to either an assistant hired by the psychologist to administer the computerized test or to the computer itself.

As we understand psychological testing, some tests may be self-administered by the patient by providing written instructions or administered by an individual who merely explains the instructions to the patient while other tests, such as the Rorschach, require the person administering the test to observe and record the patient's reactions, behaviors and responses. In the former circumstances, the test administrator would be performing no psychological services and therefore, would not be an uncertified assistant within the meaning of K.A.R. 102-1-11. However, in the latter circumstances, the test administrator would be providing information of a psychological nature to the psychologist and would be an uncertified assistant as referenced in K.A.R. 102-1-11.

Although we realize that a computer which is programmed to analyze and interpret psychological tests may be said to be performing psychological services, we are of the opinion that K.A.R. 1982 Supp. 102-1-11 is not applicable to such situations.

We note, however, that the Board has promulgated other rules and regulations which would affect the use of computerized psychological tests by certified psychologists. K.A.R. 1982 Supp. 102-1-10 provides in pertinent part:

"(b) The following acts shall be evidence of wrongful actions or lack of good moral character:

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"(2) Practicing of psychology in an incompetent manner;

"(3) Misrepresenting professional competency by offering to perform services that are clearly unwarranted on the basis of education, training, or experience;

"(4) Performing professional services inconsistent with training, education, or experience;

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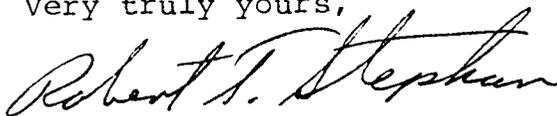
"(6) Reporting distorted, erroneous, or misleading psychological information;

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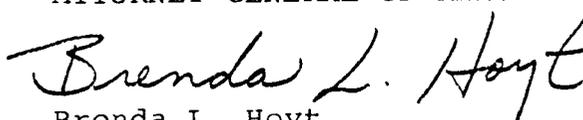
"(7) Taking credit for work not personally performed."

In our judgment, these rules and regulations require a certified psychologist to practice in a manner consistent with acceptable standards of practice for psychologists. We understand that the American Psychological Association has defined such standards for the use of psychological tests generally. The Board could consider these and other evidence of professional standards in an action for suspension or revocation of a psychologist's certification in determining whether a particular psychologist's use of computerized psychological tests violated said rules and regulations.

Very truly yours,



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ATTORNEY GENERAL OF KANSAS



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