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ATTORNEY GENERAL OPINION NO. 87-53

The Honorable Ben E. Vidricksen
Senator, Twenty-Fourth District
State Capitol, Room 143-N
Topeka, Kansas 66612

Re: Public Health -- Alcoholism and Intoxication
Treatment -- Qualifications for Membership Upon
Alcohol and Drug Abuse Program Certification
Boards.

Synopsis: Representatives of the Department of Social and
Rehabilitation Services (SRS) or its agency, the
Alcohol and Drug Abuse Section (ADAS), may not
participate on a certification board for
counselors of the Kansas Alcoholism and Drug
Abuse Counselors Association (KADACA). Cited
herein: K.S.A. 65-4016.

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Dear Senator Vidricksen:

As Senator for the Twenty-Fourth District, you request
our opinion regarding K.S.A. 65-4016. Specifically, you
are concerned with the qualifications of those who set the
standards for staff of alcohol and drug abuse programs.
Your request indicated that the Alcohol and Drug Abuse
Section (ADAS) of the Department of Social and
Rehabilitation Services (SRS) wishes to place a
representative on a certification board of the Kansas
Alcoholism and Drug Abuse Counselor's Association
(KADACA).

K.S.A. 65-4016 states:

"The secretary [of SRS] shall adopt rules and regulations and standards with respect to all [alcoholism and intoxication] treatment facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting a safe and adequate treatment program for individuals in treatment facilities in the interest of public health, safety and welfare. Boards of trustees or directors of institutions licensed pursuant to the provisions of this act shall have the right to select the professional staff members of such institutions and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the secretary [of SRS] shall be valid which, if enforced, would interfere in such selection or employment." (Emphasis added).

K.A.R. 30-31-1 states in part:

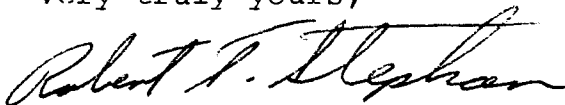
"(2) Alcohol and drug abuse section. An agency of the department of social and rehabilitation services whose powers, duties and functions are identified in K.S.A. 65-4001 through 65-4022 and 65-4601 through 65-4610, as amended."

Given that the secretary of SRS is prohibited by statute from promulgation of regulations or the setting of standards which would interfere with the selection and employment of professional staff and other personnel of treatment facilities licensed by the Department, it is our opinion that a representative of the SRS or ADAS is prohibited from membership on a board which affects certification of professional staff for such facilities. A review of "Annual Report 1986 - Kansas Department of Social and Rehabilitation Services" buttresses our opinion. According to that report, ADAS shall only coordinate and assist with KADACA and the Kansas Citizens Advisory Committee on Alcohol and other Drug Abuse. "Annual Report," pp. 37, 41-42.

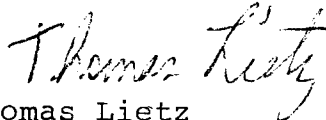
In conclusion, representatives of SRS or its agency, ADAS, may not participate on a certification board for

counselors of the Kansas Alcoholism and Drug Abuse
Counselors Association (KADACA).

Very truly yours,



Robert T. Stephan
Attorney General



Thomas Lietz
Assistant Attorney General

RTS:JLM:TRL:bas