



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 87- 184

Ms. Mary Ann Gabel
Executive Secretary
Behavioral Sciences Regulatory Board
Landon State Office Building
900 Jackson - Room 855
Topeka, Kansas 66612

Re: State Boards, Commissions and Authorities --
Certification of Psychologists -- Registration of
Masters Level Psychologists; Limitation of Practice

Synopsis: Persons who may supervise registered masters level
psychologists (RMLPs) must meet two
requirements: (1) They must be licensed to
provide mental health services and (2) their
licensure must allow them to diagnose and treat
psychological disorders. It is our opinion that
licensed psychologists meet these requirements,
but social workers and psychiatrists do not. Cited
herein: K.S.A. 65-2802; 65-2803; 65-2869; 65-2872;
K.S.A. 1986 Supp. 74-5302; 74-5310; K.S.A.
74-5311; 74-5340; 74-5344, as amended by L. 1987,
ch. 306, §12; 75-5347; K.S.A. 1986 Supp.
75-5353; K.A.R. 102-1-1; K.A.R. 1986 Supp.
102-1-12; K.A.R. 102-2-1a; K.A.R. 102-2-8, as
amended May 1, 1987.

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Dear Ms. Gabel:

As Executive Secretary of the Behavioral Sciences Regulatory Board, you request our opinion on the interpretation of a provision of a new law enacted by the 1987 legislature.

1987 Senate Bill No. 288, (L. 1987, ch. 306) provides for the registration of masters level psychologists. The parameters of a registered masters level psychologist's (RMLP's) practice are established as follows:

"Any person who is registered under the provisions of this act as a registered masters level psychologist shall have the right to practice only in a licensed community mental health center or one of its contracted affiliates, in any federal, state, county or municipal agency, or other political subdivision, or in a duly chartered educational institution insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer, so long as such practice is under the direction of a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of psychological disorders. Such person may use the title registered masters level psychologist and the abbreviation RMLP." L. 1987, ch. 306, §2. (Emphasis added).

In reference to the above-emphasized language, you ask the following question: What persons are permitted by their licensure to diagnosis and treat psychological disorders? Specifically, what persons may RMLPs practice "under the direction of"?

We are of the opinion that psychologists licensed by the Board may serve as RMLP supervisors. To become a licensed psychologist, an individual must have a doctor's degree based on a program of studies in content primarily psychological, two years of supervised experience rendering psychological services, and have passed an examination administered by the Behavioral Sciences Regulatory Board (BSRB). K.S.A. 1986 Supp. 74-5310; K.S.A. 74-5311. The "practice of psychology" is defined as:

"the 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 of such principles includes, but is not restricted to, counseling and the 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; the teaching of such subject matter; and the conducting of research on problems relating to human behavior. . . ." K.S.A. 1986 Supp. 74-5302(a).

Clearly, licensed psychologists are independent practitioners who provide mental health services. While the above definition does not specifically use the term "diagnosis", we think the "practice of psychology" as defined by statute necessarily implies diagnosis and treatment of psychological disorders. Our conclusion is confirmed by an examination of the extensive educational program psychologists must meet to obtain licensure. See K.A.R. 1986 Supp. 102-1-12. Furthermore, several definitions contained in Kansas administrative regulations show that licensed psychologists diagnose psychological disorders:

"(f) A 'client or patient' means a person who is a direct recipient of psychological services. Such services may be either therapeutic or diagnostic in nature.

. . .

"(j) 'Psychological assessment' means the use, in any manner, of established psychological tests, procedures, and techniques with the intent of diagnosis adjustment, functional, mental, vocational, or emotional problems or establishing treatment methods for persons having such problems." K.A.R. 1986 Supp. 102-1-1 (emphasis added).

Since both criteria of the statute are met, licensed psychologists may supervise RMLPs.

The BSRB also licenses social workers. Only licensed specialist clinical social workers (LSCSW) may engage in the private, independent practice of social work. K.S.A. 1986 Supp. 75-5353. A social worker not licensed as a LSCSW may engage in private practice if supervised by a LSCSW. K.A.R. 102-2-1a(i); 102-2-8(a), as amended May 1, 1987. See Attorney General Opinion No. 87-112. "Social work practice" is defined in K.S.A. 75-5347(b) as follows:

"'Social work practice' means the professional activity of helping individuals, groups or communities enhance or restore their capacity for physical, social and economic functioning and the professional application of social work values, principles and techniques in areas such as psychotherapy, social service administration, social planning, social work consultation and social work research to one or more of the following ends: Helping people obtain tangible services; counseling with individuals, families and groups; helping communities or groups provide or improve social and health services; and participating in relevant social action. The practice of social work requires knowledge of human development and behavior; of social, economic and cultural institutions and forces; and of the interaction of all these factors. Social work practice includes the teaching of practicum courses in social work."

Social workers provide mental health services and many are independent practitioners. However, as defined by statute, the practice of social work does not include diagnosing psychological disorders. Therefore, we must conclude that social workers do not meet the qualifications necessary to serve as RMLP supervisors.

The question arises whether a RMLP may practice under the direction of a psychiatrist. Kansas does not license psychiatrists as such. Rather, psychiatrists are licensed by the Board of Healing Arts as healing arts practitioners of

medicine and surgery. Through advanced or specialized training, medical doctors may obtain the designation "psychiatrist" from national professional organizations.

"Healing arts" is defined in K.S.A. 65-2802(a) as follows:

"The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury. . . ."

Medicine and surgery is one of the three branches of healing arts. K.S.A. 65-2802(a). Kansas law defines the practice of medicine and surgery to include persons who

"prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment, or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease or physical or mental illness, of human beings." K.S.A. 65-2869(b) (emphasis added).

We noted in Attorney General Opinion No. 80-220, p.2, that "to some extent the practice of a licensed physician in the treatment of mental illness may necessarily involve tools, techniques, tests or instruments used by [licensed] psychologists. . . ." The licensure of psychologists act recognizes this fact and provides:

"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 oneself to be a
licensed psychologist or a registered
masters level psychologist. . . ." K.S.A.
74-5344, as amended by L. 1987, ch. 306,
§12.

Even though the tools and methods associated with one
profession may be utilized by the other, the practice of
psychology and the practice of medicine and surgery are
separate and distinct disciplines. The licensure of
psychologists act restricts the practice of psychology to
licensed psychologists and RMLPs. K.S.A. 1986 Supp.
74-5302(b); K.S.A. 74-5340; K.S.A. 74-5344, as amended by L.
1987 ch. 306, §12; Attorney General Opinion No. 80-220,
pp. 3-4. The healing arts act limits the practice of
medicine and surgery to physicians. K.S.A. 65-2803.

K.S.A. 65-2872 of the healing arts statutes lists certain
persons deemed not to be practicing the healing arts,
including:

"(h) Persons in the general fields of
psychology, education and social work,
dealing with the social, psychological
and moral well-being of individuals and/or
groups provided they do not use drugs and
do not hold themselves out to be the
physicians, surgeons, osteopathic
physicians or chiropractors." (Emphasis
added).

In defining "practice of psychology," K.S.A. 1986 Supp.
74-5302 includes the following language:

"except that in all cases involving the
care of the sick and ill as defined by the
laws of this state, the primary
responsibility devolves upon those
licensed under the Kansas healing arts
act."

K.S.A. 75-5344(g), as amended by L. 1987, ch. 306 §12 provides that the psychology statutes are not to be interpreted:

"to permit persons licensed as psychologists to engage in the practice of medicine as defined in the laws of this state, nor to require such licensed psychologists to comply with the Kansas' healing arts act. . . ."

In Attorney General Opinion No. 79-247, p.3, we stated that the two provisions immediately cited above "are intended merely to assure that the practice of the healing arts and the practice of psychology, and the regulation of each discipline, shall remain separate and distinct." See Attorney General Opinion No. 80-220, p.2.


It is clear under the Kansas statutes that persons licensed only to practice the healing arts cannot engage in the practice of psychology, and licensed psychologists are not authorized by their licensure to practice the healing arts. RMLP supervisors must meet two requirements: (1) They must be licensed to provide mental health services and (2) their licensure must allow them to diagnose and treat psychological disorders. K.S.A. 65-2869(b) provides that healing arts licensees who practice medicine and surgery may diagnose mental illness. It cannot be said that the terms "psychological disorders" and "mental illness" as used in the Kansas statutes are synonymous. Statutes referring to physicians and their practice use such terms as "illness" and "sick and ill." Physicians may prescribe medicine, psychologists can not. K.S.A. 65-2869(b); 65-2872. In addition, it is important to note that healing arts statute, K.S.A. 65-2872, states that persons in the field of psychology and those dealing with the psychological well-being of individuals are not practicing healing arts. These factors suggest that the practice of diagnosing and treating psychological disorders is not the same as that concerning mental illness. While a physician may, in diagnosing and treating mental illness, use tools and methods that a psychologist uses, a physician is precluded from practicing psychology. Thus, it does not appear that a psychiatrist's license - which is a license to practice the medicine and surgery branch of the healing arts - allows for the "diagnosis and treatment of psychological disorders." Furthermore, a psychiatrist does not meet the first requirement to be a RMLP supervisor. Nowhere in the


definition of healing arts or medicine and surgery does it state that a licensee may provide "mental health services."

The relationship between the supervisor and RMLP must also be considered. The purpose of supervision is to provide training and to ensure that the psychological services rendered are appropriate. While physicians may utilize some of the tools and methods employed by psychologists, we have noted that the two disciplines are separate and distinct. Therefore, it does not seem that the legislature intended the training and practice of RMLPs to be supervised by professionals whose training and experience are different.

In summary, persons who may supervise registered masters level psychologists must meet two requirements: (1) They must be licensed to provide mental health services and (2) their licensure must allow them to diagnose and treat psychological disorders. For reasons discussed in this opinion, we conclude that licensed psychologists may serve as RMLP supervisors but that social workers and psychiatrists do not qualify.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Rita L. Noll
Assistant Attorney General

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