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ATTORNEY GENERAL OPINION NO. 88- 172

Mary Ann Gabel
Executive Director
Behavioral Sciences Regulatory Board
Landon State Office Building, Room 855
Topeka, Kansas 66612

Re: State Boards, Commissions and Authorities --
Regulation of Psychologists; Licensure of
Psychologists -- Practice of Psychology; Exempt
Settings

Synopsis: A person with a Ph.D. in psychology who is eligible for licensure is not required to be a licensed psychologist or a registered masters level psychologist (RMLP) if that person teaches psychology for a state university or college. However, a person hired by a state university or college to provide psychological services to students, or whose duties include providing such services, must be either a licensed psychologist or an RMLP. Cited herein: K.S.A. 1987 Supp. 74-5302; 74-5340; 74-5341; 74-5344, as amended by L. 1988, ch. 304, § 10; K.S.A. 1987 Supp. 74-5362, as amended by L. 1988, ch. 304, § 6; K.S.A. 1987 Supp. 74-7501.

* * *

Dear Ms. Gabel:

As executive director of the Kansas behavioral sciences regulatory board (BSRB), you have requested our opinion

concerning the licensure of psychologists. The question you ask focuses on two fact situations:

"1. A person with a Ph.D. in psychology who is eligible for licensure, is hired by a Kansas university or college. His duties are exclusively in the area of providing psychological services to students through a Student Health Center, a Psychological Clinic, a Counseling Center, or a program that is non-academic and is clearly service oriented.

"2. A person with a Ph.D. in psychology who is eligible for licensure, is hired by a Kansas university or college. His primary duties are in the area of teaching, but part of his duties include either providing services directly to students or supervising students who provide these services. The work may be performed in either a setting such as noted . . . above or in a field setting outside the college/university."

Specifically, your question is whether, in the above situations, the person is required to be licensed as a psychologist.

One of the duties of the Board is to provide for and regulate the licensure of psychologists. K.S.A. 74-5302; K.S.A. 74-7501 et seq. It is a class A misdemeanor for an unlicensed person "to represent oneself to be a psychologist." K.S.A. 1987 Supp. 74-5340; K.S.A. 1987 Supp. 74-5341. That term is defined in K.S.A. 1987 Supp. 74-5302:

"(b) 'Represents oneself to be a psychologist' means that a person engages in the practice of psychology for a fee, monetary or otherwise, or holds oneself 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."

K.S.A. 1987 Supp. 74-5344, as amended by L. 1988, ch. 304, § 10, lists instances in which licensure as a psychologist is not required. One provision is pertinent to this opinion:

"Nothing contained in this act shall be construed . . . (b) in any way to restrict any person from carrying on any of the aforesaid activities in the free expression or exchange of ideas concerning the practice of psychology, the application of its principles, the teaching of such subject matter and the conducting of research on problems relating to human behavior if such person does not represent such person or such person's services in any manner prohibited by this act. . . ." (Emphasis added).

We believe the above provision is clear that a person who is eligible for licensure as a psychologist is not required to be licensed if that person is hired by a Kansas university or college to teach psychology. You ask whether the person must be licensed if he or she is hired by a university or college to provide psychological services to students through a student health center or clinic. In our opinion, such person must either be licensed as a psychologist or registered with the Board as a Registered Masters Level Psychologist (RMLP). Providing psychological services to students does not constitute "teaching." The only other exemption from licensure which applies is that concerning the practice of psychology by an RMLP. K.S.A. 1987 Supp. 74-5344(c), (k), as amended. K.S.A. 1987 Supp. 74-5362, as amended by L. 1988, ch. 304, § 6, provides that psychologists employed by state institutions are not required to be licensed to practice psychology if they are registered with the Board as an RMLP. Thus, a person hired by a state university or college to provide psychological services to students must either be an RMLP or a licensed psychologist.

The second fact situation you present to us includes two questions. The first is whether a person with a Ph.D. in psychology employed by a state university or college to teach psychology and provide psychological services to students must be licensed. As previously noted, while teaching is exempt, providing psychological services to students is not. Exemption for one activity does not provide an exemption for another activity. Therefore, a "teacher" in this situation

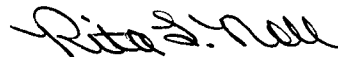
must be a licensed psychologist or an RMLP before he or she can provide psychological services to students.

The second question which arises is whether the person must be licensed if, in addition to teaching psychology in the classroom, the person supervises psychology students in their practice of psychology pursuant to an internship or practicum experience. In our opinion, such supervision constitutes teaching. Therefore, the "teacher" is not required to be licensed or registered with the Board.

In summary, a person with a Ph.D. in psychology who is eligible for licensure is not required to be a licensed psychologist or a registered masters level psychologist if that person teaches psychology for a state university or college. However, a person hired by a state university or college to provide psychological services to students, or whose duties include providing such services, must be either a licensed psychologist or an RMLP.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



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