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ATTORNEY GENERAL OPINION NO. 89- 126

Marvin A. Kaiser, Ph.D., Chairperson
Behavioral Sciences Regulatory Board
Landon State Office Bldg., Room 855-S
Topeka, Kansas 66612

Re: Public Health -- Professional Counselors --
Registration Requirements

Synopsis: Persons seeking registration as a professional counselor under the provisions of K.S.A. 1988 Supp. 65-5811(a) and (b) are not required to have acquired the practice experience subsequent in time to obtaining the graduate degree. Cited herein: K.S.A. 1988 Supp. 65-5801; K.S.A. 1988 Supp. 65-5804, as amended by L. 1989, ch. 276, § 1; K.S.A. 1988 Supp. 65-5811; K.A.R. 102-3-6.

* * *

Dear Dr. Kaiser:

As chair of the Behavioral Sciences Regulatory Board, you have asked our opinion regarding the statutory and regulatory requirements for registration as a professional counselor.

The legislature enacted the professional counselors registration act in 1987. K.S.A. 1988 Supp. 65-5801 et seq. Applicants for registration must meet the requirements listed in K.S.A. 1988 Supp. 65-5804(b), as amended by L. 1989, ch. 276, § 1. However, the legislature provided a "grandfathering" statute whereby certain applicants may obtain registration without meeting the examination requirements of K.S.A. 1988 Supp. 65-5804(b), as amended:

"Before January 1, 1988, the board, upon receipt of a proper application and payment of fees, shall issue a registration without examination to a person who prior to July 1, 1987:

(a) Has practiced full time as a professional counselor for at least five years and possesses a graduate degree in counseling from a college or university approved by the board and is currently engaged in the practice of professional counseling; or

(b) has practiced full time as a professional counselor for at least two years, possesses a graduate degree with at least 60 graduate semester hours in counseling from a college or university approved by the board and is currently engaged in the practice of professional counseling." K.S.A. 1988 Supp. 65-5811.

K.A.R. 102-3-6(d)(2) states as follows:

"Professional experience gained before the completion of all academic requirements for the graduate degree shall not fulfill requirements for registration pursuant to K.S.A. 1987 Supp. 65-5804."

The question presented is whether persons seeking registration under the provisions of K.S.A. 1988 Supp. 65-5811(a) and (b) must comply with K.A.R. 102-3-6, so that professional experience cannot be acquired until after the graduate degree is obtained. We conclude that K.A.R. 102-3-6(d)(2) is not applicable to persons seeking registration under the "grandfathering" provisions. The regulation itself limits its provisions to K.S.A. 65-5804. In addition, K.S.A. 1988 Supp. 65-5811, as amended, does not, in listing the requirements for registration, contain any conditions as to the order in which the requirements must be met. In other words, the statute does not mandate that the applicant must have obtained the graduate degree before gaining the practice experience.

In summary, persons seeking registration as a professional counselor under the provisions of K.S.A. 1988 Supp. 65-5811(a)

and (b) are not required to have acquired the practice experience after the graduate degree is obtained.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Rita L. Noll
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RTS:JLM:RLN:bas