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November 4, 1991

ATTORNEY GENERAL OPINION NO. 91- 139

The Honorable Barbara P. Allen
State Representative, 21st District
P.O. Box 8053
Prairie Village, Kansas 66208

Re: State Boards, Commissions and Authorities --
Behavioral Sciences Regulatory Board -- Behavioral
Sciences Regulatory Board; Composition; Definition
of Term "General Public"

Synopsis: The term "general public" as used in K.S.A. 1990
Supp. 74-7501 which specifies the composition of
the behavioral sciences regulatory board refers to
any person who is not a licensed psychologist or a
licensed social worker. Cited herein: K.S.A. 1990
Supp. 74-7501; K.S.A. 74-7502.

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Dear Representative Allen:

As representative for the twenty-first district, you request our opinion regarding the definition of the term "general public" as it is used in K.S.A. 1990 Supp. 74-7501, the statute that creates the behavioral sciences regulatory board and specifies its composition.

Prior to 1980 psychologists were licensed and regulated by the state board of examiners of psychologists; social workers were licensed and regulated by the board of social work examiners. In 1980 the statutory authority for those boards was repealed and all of their powers, duties and functions were transferred to, conferred and imposed upon the newly created behavioral sciences regulatory board. K.S.A. 74-7502.

In setting the composition of the behavioral sciences regulatory board, K.S.A. 1990 Supp. 74-7501 provides in pertinent part:

"There is hereby created a behavioral sciences regulatory board consisting of seven members appointed by the governor. The membership of the board shall be as follows: Two members of the board shall be licensed psychologists; two members of the board shall be licensed to engage in the practice of social work; and three members of the board shall be from and shall represent the general public."

While provisions of K.S.A. 1990 Supp. 74-7501 have been amended at various times since 1980, the provision specifying the composition of the board has remained unchanged since its inception. The term "general public" as used in this provision has not been defined by statute.

A fundamental rule of statutory construction is that the purpose and intent of the legislature governs the construction of a statute, when that intent can be ascertained from the statute. Unified School District 279, Jewell County v. KDHR, 247 Kan. 519 (1990). When a statute is plain and unambiguous, effect must be given to the intention of the legislature as expressed, rather than a determination of what the law should or should not be. Randall v. Seeman, 228 Kan. 395 (1980).

In our opinion the plain meaning of the term "general public" is any person who does not fall within either of the first two categories specified in K.S.A. 1990 Supp. 74-7501. In other words, the term "general public" refers to any person who is not a licensed psychologist or a licensed social worker.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Camille Nohe
Assistant Attorney General