



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

October 9, 2012

ATTORNEY GENERAL OPINION NO. 2012- 25

The Honorable Don Hill
State Representative, Sixtieth District
1720 Luther
Emporia, Kansas 66801

Re: Public Health—Social Workers—Prohibited Acts; Qualifications for Licensure;
Master Social Worker

Counties and County Officers—Mental Health Centers and Services—
Community Mental Health Centers and Community Facilities for the Mentally
Retarded; Services of Such Facilities; Governing Boards; Charges for
Services

Synopsis: A student engaged in a field education program to fulfill a requirement for a master's degree in social work can participate in the delivery of social work services if supervised by a social worker licensed by the Kansas Behavioral Sciences Regulatory Board. Although a community mental health center has discretion in assessing a fee for its services, it cannot assess a fee for social work services provided by a student who is completing a field education program to fulfill a requirement for a master's degree in social work. Cited herein: K.S.A. 19-4001, 19-4002, 19-4003, 65-6303, 65-6306, K.A.R. 30-60-40, 102-2-6.

* * *

Dear Representative Hill:

As State Representative of the Sixtieth District, you ask if a community mental health center (CMHC) may charge a fee to its clients for the services provided by a student completing a master's degree in social work. Accordingly, our analysis reviews the requirements for licensure as a social worker and the fees charged by CMHC.

Licensure Act for Social Workers

Pursuant to the Licensure Act for Social Workers (Act),¹ the Kansas Behavioral Sciences Regulatory Board (Board) issues licenses to qualified applicants as a baccalaureate social worker, a master social worker, a specialist social worker, and a specialist clinical social worker.² Only the baccalaureate social worker license does not require a graduate degree in social work.³ Thus, a student participating in a field education program to obtain a master's degree in social work could be a licensed baccalaureate social worker. Because we do not have the authority to determine whether a fee covers services as a licensed baccalaureate social worker or as a student obtaining a master's degree in social work,⁴ this opinion assumes that the student is not also providing services at the CMHC as a licensed baccalaureate social worker.

An applicant seeking licensure as a master's social worker must hold a master's degree from an accredited college or university and have completed a social work program.⁵ Additionally, the graduate social work program must "have a field education program that is clearly incorporated as an integral component of the curriculum and the social work degree requirements. The field education program shall engage the student in supervised social work practice and experiential opportunities that apply classroom learning in the field setting."⁶

Subsection (a) of K.S.A. 65-6303 governs the assessment of a fee for social work services. It states:

No person shall engage in the practice of social work for compensation or hold forth as performing the services of a social worker unless such person is licensed in accordance with the provisions of this act, nor may any person participate in the delivery of social work service unless under the supervision of a person who is licensed under this act.

Accordingly, a social work student engaged in a field education program may participate in the delivery of social work services if a licensed social worker supervises that student. However, because a student in a social work field education program is not a licensed master's social worker, K.S.A. 65-6303(a) prohibits the assessment of a fee for the social work services provided by such student. We next review the provisions governing a CMHC to determine if they are congruent with the provisions governing social workers.

¹ K.S.A. 65-6301 *et seq.*

² K.S.A. 65-6306(a), (b), (c), and (d), respectively.

³ *Id.*

⁴ See K.S.A. 75-704 (Attorney General provides written opinions "upon all questions of law") and Attorney General's Statement of Policy Relating to the Furnishing of Written Legal Opinions, ¶ 8 (only questions of law will be answered).

⁵ K.S.A. 65-6306(b)(1) and (e).

⁶ K.A.R. 102-2-6(d).

Fees Charged by a Community Mental Health Center

K.S.A. 19-4001 authorizes Kansas counties to establish CMHCs to provide various mental health services, including "in-service training for students entering the mental health professions,"⁷ and to establish a CMHC governing board.⁸ One duty of a CMHC governing board is to establish policies for the operation of the CMHC.⁹ A licensed CMHC that uses students to provide services must insure that the students "are screened, trained, and regularly supervised in accordance with written policies and procedures" of the CMHC.¹⁰ Pursuant to K.S.A. 19-4005, a CMHC "governing board may establish" a fee schedule for the services provided to its clients, but it cannot deny its services to persons unable to pay for those services. Thus, the discretion given to a CMHC governing board in assessing fees for its services does not prohibit a fee for the services provided by a supervised student social worker.

Conclusion

Although K.S.A. 19-4005 does not prohibit a CMHC from assessing a fee for services provided by a student engaged in a field education program required for a master's degree in social work, we believe, based upon the rules of statutory construction,¹¹ that the specific prohibition against such fees in K.S.A. 65-6303 controls. Thus, we conclude that a CMHC may not assess a fee for the social work services provided by a student engaged in a field education program to fulfill a requirement for a master's degree in social work. To conclude otherwise creates a conflict between K.S.A. 19-4005 and K.S.A. 65-6303.

Sincerely,

Derek Schmidt
Attorney General

Janet L. Arndt
Assistant Attorney General

DS:AA:JLA

⁷ K.S.A. 19-4001. Two or more counties may also jointly establish a mental health center.

⁸ K.S.A. 19-4002(a)(1)-(2).

⁹ K.S.A. 19-4003(b).

¹⁰ K.A.R. 30-60-40(f).

¹¹ See *In re Mental Health Association of the Heartland*, 289 Kan. 1209, 1215 (2009) (a specific statute controls over a general statute).