



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 9, 1975

ATTORNEY GENERAL OPINION NO. 75-450

Ms. Shelley D. G. Bloomer
Osborne County Attorney
Osborne County Courthouse
Osborne, Kansas 67473

Re: Domestic Relations--Family Planning Centers--Juveniles

Synopsis: The assistance provided by family planning centers is available only to that class of individuals identified in K.S.A. 23-501 which does not include individuals under eighteen years of age.

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Dear Ms. Bloomer:

You request an opinion relative to the authority a public health nurse has in furnishing and disseminating information concerning means and methods for planned parenthood and distributing contraceptive devices recommended by the state board of health. You advise that your county public health nurse is administering pregnancy tests and issuing birth control devices to individuals under eighteen years of age through a family planning center established and operated pursuant to K.S.A. 23-501, and these juveniles are being referred to the center for assistance by a medical doctor but without any parental consent. Specifically you ask whether under such circumstances the center may offer such services to these juveniles.

The particular qualifications for individuals who may avail themselves of family planning centers is provided in K.S.A. 23-501 thusly:

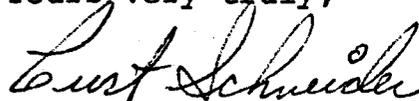
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" . . . upon request of any person *who is over eighteen (18) years of age and who is married or who has been referred to said center by a licensed physician and who resides in this state. . .*"
[Emphasis supplied.]

Thus, the statute empowers family planning centers established thereunder to extend their services to any person who 1) is over eighteen years of age, and 2) who is married or 3) who is referred to the center by a licensed physician, and 4) who resides in this state. But, the statute does not provide four separate classes of persons entitled to the services of such centers defined without reference to the other classes provided therein. That is to say, the statute does not create a class of eligible persons comprised entirely of every person "who is over eighteen (18) years of age," another separate and independent class comprised entirely of every person "who is married," a third class consisting of every person "who has been referred to said center by a licensed physician," and a fourth class consisting of every person "who resides in this state." When the statute is sought to be construed in this matter, of course, any person who has been referred to the center by a licensed physician is eligible for services therefrom despite the fact that the person is under eighteen years of age. Such a construction does violence to the plain language of the statute, whereby an eligible user of center services must satisfy three distinct criteria, the first being an age of over eighteen years, the second being Kansas residence, and the third being either marriage or referral by a licensed physician.

If services of the Center are to be extended to persons under eighteen years of age, it is necessary that the legislature amend these clearly prescribed criteria so as to enlarge the class of eligible persons accordingly.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:JRM:kj