



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 20, 1978

ATTORNEY GENERAL OPINION NO. 78-240

Mr. Richard E. Brown
Legislative Post Auditor
Legislative Division of Post Audit
Mills Building
Topeka, Kansas 66612

Re: Sunset Law--Board of Social Work Examiners--Effect

Synopsis: Under the abolition of the Board of Social Work Examiners as provided in section 5 of the Kansas Sunset Law, ch. 308, L. 1978, the Secretary of Social and Rehabilitation Services continues to exercise independently the substantive powers and responsibilities concerning the licensure of social workers which are vested in that office under K.S.A. 75-5301 *et seq.*

* * *

Dear Mr. Brown:

Under the Kansas Sunset Law, ch. 308, L. 1978, and specifically sections 2 through 7 thereof, six state agencies are scheduled to be abolished effective July 1, 1979. These agencies are the Athletic Commission, appointed pursuant to K.S.A. 1977 Supp. 74-2901 *et seq.*; the Mobile Home and Recreational Vehicle Commission created by K.S.A. 75-1219 as amended; the Abstracters' Board of Examiners created by K.S.A. 1977 Supp. 74-3901 as amended; Board of Social Work Examiners created by K.S.A. 75-5349 as amended; the Kansas Board of Examiners in Fitting and Dispensing of Hearing Aids, established by K.S.A. 74-5801 as amended; and the State Board of Examiners of Psychologists created by K.S.A. 74-5303 as amended.

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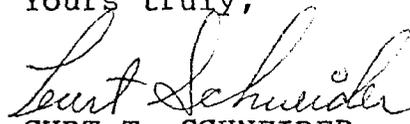
You advise that since commencing performance audits of these agencies pursuant to section 38 of the Sunset Law, questions have arisen in particular concerning two of these agencies, the board of Social Work Examiners and the Mobile Home and Recreational Vehicle Commission, the duties of which are entirely advisory. For example, the Board of Social Work Examiners serves entirely "in an advisory capacity to the secretary [of Social and Rehabilitation Services] in matters pertaining to the provisions of this act [relating to licensing of social workers]." K.S.A. 75-5349. All substantive powers regarding the licensing of social workers is vested specifically in the Secretary, who is authorized to issue licenses and temporary permits, K.S.A. 75-5347 and -5348; to adopt rules and regulations governing the professional conduct of licensed social workers, prescribing continuing education requirements therefor, establishing classes of specialties which are eligible for recognition for licensure under the act and such other rules and regulations as may be necessary to administer the licensing act; to grant exemptions from examination, K.S.A. 75-5354; to refuse to renew, to suspend and to revoke licenses issued under the act, K.S.A. 75-5356; and to exercise virtually every other substantive responsibility in the administration of the licensing law.

Thus, the question has arisen whether the Sunset Law, ch. 308, L. 1978, in its application to the Board of Social Work Examiners, operates to abolish the licensing of social workers entirely as of July 1, 1979, or whether it operates only to abolish the Board of Social Work Examiners. Section 5 of the act states thus:

"Except as provided in section 37, the board of social work examiners created by K.S.A. 75-5349, as amended, shall be and is hereby abolished on July 1, 1979."

I agree with you that the Sunset Law operates only to abolish the board itself, and leaves intact the licensing authority and powers of the Secretary of Social and Rehabilitation Services. To the extent that any of those powers are stated to be exercised "with the advice and assistance of the board [of social work examiners,]" as in K.S.A. 75-5350, upon the abolition of that board, the Secretary remains authorized to continue to discharge those powers and responsibilities, unaided by the advice and assistance of the erstwhile board.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj