



STATE OF KANSAS

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September 20, 1982

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ATTORNEY GENERAL OPINION NO. 82-208

Gerald R. Bergen
Student Assistance Officer
Board of Regents
Suite 110, Merchants National Bank Tower
Topeka, Kansas 66612

Re: State Boards, Commissions and Authorities -- State Board of Regents -- Osteopathic Student Loan Agreements and Deferments

Synopsis: The Kansas Board of Regents lacks authority to postpone repayment of promissory notes made pursuant to K.S.A. 1981 Supp. 74-3247. The postponement of repayment obligations for scholarships to osteopathic medical students authorized by L. 1982, Ch. 378 are inapplicable to the promissory notes made under the older loan program. Cited herein: K.S.A. 1981 Supp. 74-3246, 74-3247, 76-373, 76-375 (as amended by L. 1982, ch. 378), 76-376, 76-377, L. 1982, ch. 378.

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Dear Mr. Bergen:

On behalf of the Kansas Board of Regents, you seek an opinion concerning the deferral of repayments of loans made to osteopathic students pursuant to K.S.A. 1981 Supp. 74-3246 and 74-3247. Your inquiry arises as a result of the provisions of K.S.A. 1981 Supp. 76-375, as amended by L. 1982, ch. 378, §5, which provides a new procedure for making loans to osteopathic students.

Under K.S.A. 1981 Supp. 74-3246 and 74-3247, the Kansas Board of Regents was authorized to enter into agreements with certain schools of osteopathic medicine and up to 25 Kansas students for purposes of making tuition payments on behalf

of such students. In addition, the latter section authorizes the Board to loan up to \$6,000 per year to such students who execute promissory notes payable to the State of Kansas, with each note bearing interest at a rate of 10% per annum. Paragraph (e) of 74-3247 ties such loans to the students' commitment to serve medically under-served areas of Kansas in accordance with K.S.A. 1980 [now 1981] Supp. 76-375. Specifically, these osteopathy students are to be subject to subsections (c) and (d) of 76-375

"in the manner and to the same effect as a person required to engage in the full-time practice of medicine and surgery in a service commitment area I pursuant to any agreement under K.S.A. 1980 Supp. 76-373 to 76-377, and amendments thereto, except [regarding notification requirements not relevant here]."
K.S.A. 1981 Supp. 74-3247.

Subsections (c) and (d) of 76-375 concern selection of service areas by students accepting loans. No mention is made of deferring loan payments for osteopathic medical students, nor are the loan and repayment requirements tied to the provisions of K.S.A. 1981 Supp. 76-377 which authorize postponement of such loan obligations for students of medicine and surgery. Such postponement options were not authorized by statute for osteopathy students entering into such agreements and notes, hence the promissory notes did not contain postponement provisions. Thus, the parties entering into loan obligations apparently did not contemplate repayment postponement.

In 1982 the Kansas legislature enacted a new law which provided \$10,000 annual scholarships for up to 15 students of osteopathic medicine. L. 1982, ch. 378. New Section 3 of the 1982 act requires repayment of the scholarship amount plus 15% where the recipient fails to practice medicine and surgery in Kansas as required by the act. However, New Section 4 permits postponement of the repayment obligation where the failure to practice in Kansas results from any of the reasons listed.

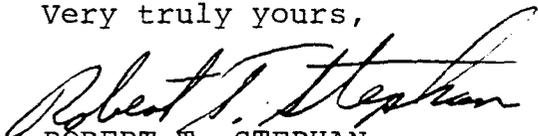
The 1982 law does not mention the notes entered into pursuant to K.S.A. 1981 Supp. 74-3247. In fact, New Section 4 of L. 1982, ch. 378 is limited to obligations and agreements "under section 2" of the 1982 act. Hence, we find no evidence of legislative intent in the 1982 osteopathic student scholarship laws to authorize the Board of Regents to postpone repayment of promissory notes entered into pursuant to K.S.A. 1981 Supp. 74-3247 in prior years.

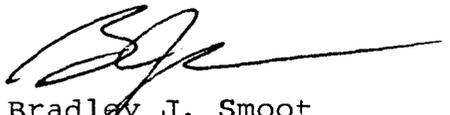
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We would note, however, that the notes made pursuant to K.S.A. 1981 Supp. 74-3247 are payable to the State of Kansas and nothing in this opinion limits the powers of the state, through its legal counsel, to collect all debts owed it in any lawful manner.

Therefore, it is our opinion that the Kansas Board of Regents lacks authority to postpone repayment of promissory notes made pursuant to K.S.A. 1981 Supp. 74-3247. The postponement of the repayment obligations for scholarships to osteopathic medical students authorized by L. 1982, ch. 378 are inapplicable to the promissory notes made under the older loan program.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Bradley J. Smoot
Deputy Attorney General

RTS:BJS:hle