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July 29, 1987

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ATTORNEY GENERAL OPINION NO. 87- 112

Mary Ann Gabel, Executive Secretary
Behavioral Sciences Regulatory Board
Landon State Office Bldg., Room 855
900 Jackson
Topeka, Kansas 66612-1220

Re: State Boards, Commissions and Authorities --
Behavioral Sciences Regulatory Board -- Licensure
of Social Workers; Private, Independent Practice of
Social Work.

State Departments; Public Officers and Employees --
Department of Social and Rehabilitation Services --
Licensing of Social Workers; Private, Independent
Practice of Social Work

Synopsis: Only licensed specialist clinical social workers
(LSCSW) may engage in the private, independent
practice of social work. Social workers not
licensed as a LSCSW may engage in private practice
if their practice is supervised by a LSCSW. Cited
herein: K.S.A. 74-7502; K.S.A. 1986 Supp.
74-7507, as amended by L. 1987, ch. 315, § 17;
K.S.A. 75-5346; 75-5351; K.S.A. 1986 Supp.
75-5353; K.A.R. 102-2-1a, as amended May 1, 1987;
102-2-8, as amended May 1, 1987; 102-2-12, as
amended May 1, 1987.

Dear Ms. Gabel:

As the Executive Secretary for the Kansas Behavioral Sciences
Regulatory Board (Board), you ask our opinion on the following
question:

May a licensed social worker who is not licensed at the LSCSW level engage in the private, independent practice of social work if the supervision requirements of K.A.R. 102-2-1a(g) and K.A.R. 102-2-8(a)(2) are met?

The Kansas statutes concerning the licensure of social workers are located at K.S.A. 75-5346 et seq. The Board is responsible for licensing and regulating social workers. K.S.A. 74-7502. K.S.A. 1986 Supp. 75-5353 places limitations on the "private, independent practice of social work":

"(a) No person may engage in the private, independent practice of social work unless such person:

"(1) Is licensed under this act as a specialist social worker; and

"(2) has had two years' supervised experience approved by the board, pursuant to rules and regulations adopted by the board, as a licensed social worker in the specialty to be offered in private practice subsequent thereto.

"(b) Any violation of this section shall constitute a class B misdemeanor."
(Emphasis added).

Pursuant to its authority to administer the provisions of K.S.A. 75-5346 et seq., the Board has defined the term in question in the following administrative regulation:

"'Private, independent practice of social work' means the provision of social work services by a self-employed person, a member of a partnership, a member of a professional corporation, or a member of a group practice who is not accountable to a social work supervisor." K.A.R. 102-2-1a(i), as amended May 1, 1987.
(Emphasis added).

K.S.A. 1986 Supp. 75-5353 was amended by the 1986 legislature. L. 1986, ch. 340, § 2. Prior to the amendment, social workers licensed at the masters level were permitted to engage in private, independent practice. See

Attorney General Opinion No. 85-78. Because of the statutory change, the Board has received numerous inquiries concerning the qualifications a social worker must have to engage in private practice.

The Board is authorized by K.S.A. 1986 Supp. 74-7507(h), as amended, to adopt rules and regulations establishing classes of social work specialities. "Social work practice specialty" is defined by regulation as:

"a post-masters degree practice with emphasis upon a specific, identifiable field of practice and methods of helping. The minimum requirements for a license in a specialty shall be two years of post-masters experience under supervision in that practice specialty from one licensed in, or qualified for licensing in, that specialty as established by the board and successful completion of an examination approved by the board for this purpose." K.A.R. 102-2-1a(d), as amended May 1, 1987.

Currently, the Board has recognized one social work specialist, the licensed specialist clinical social worker (LSCSW):

"(e) 'Licensed specialist clinical social worker' means a person who has a masters or doctoral degree in social work, who meets the requirements for experience and supervision in K.A.R. 102-2-12, and who has passed an examination approved by the board." K.A.R. 102-2-1a, as amended May 1, 1987.

("Clinical social work" is defined at K.A.R. 102-2-1a(f), as amended May 1, 1987.) Thus, the private, independent practice of social work is limited to LSCSWs. The requirements for licensure as a LSCSW are listed in K.A.R. 102-2-12, as amended May 1, 1987.

To be engaged in "private, independent practice," the social worker's services must be both (1) private and (2) independent. A social worker is in a private setting if the social worker is self-employed or is a member of a partnership, professional corporation, or group practice.

K.A.R. 102-2-1a(i), as amended May 1, 1987. Social workers employed by governmental entities are not in private practice. As defined in K.A.R. 102-2-1a(i), a social worker is practicing independently if the social worker "is not accountable to a social work supervisor." Conversely, a social worker who is under supervision is not engaged in independent practice. Therefore, only LSCSWs may engage in private, independent practice while social workers not licensed at the LSCSW level may engage in private practice if they are supervised.

In this opinion we have referred to two types of supervision. First, an applicant for licensure as a specialist social worker must have two years supervised experience. K.S.A. 75-5351(c)(2); K.S.A. 1986 Supp. 75-5353(a)(2); K.A.R. 102-2-1a(d), as amended May 1, 1987. The specific supervision required to become licensed as a LSCSW is set forth in K.A.R. 102-2-12, as amended May 1, 1987. Second, a social worker not licensed as a LSCSW must be supervised to engage in private practice. K.A.R. 102-2-1a(i), as amended May 1, 1987. As noted earlier, only specialist social workers may engage in private, independent practice and the only recognized speciality is clinical social work. K.A.R. 102-2-8(a), as amended May 1, 1987, provides:

"(a) Licensed social workers.

"(1) Social workers having less than the specialty social work license shall not engage in private, independent practice.

"(2) Any person who provides clinical social work services as a self-employed person, member of a partnership, member of a professional corporation, or a member of a group practice and who is not licensed as a specialist clinical social worker shall be supervised by a licensed specialist clinical social worker.

"(3) Social work consultation shall not meet the supervision requirements for the social work service provider.

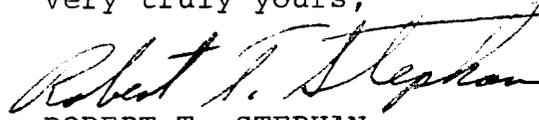
"(4) A minimum of one hour of supervision shall be provided per 40 hours of service delivery.

"(5) The supervisor shall not be under a supervisory agreement with the board. This provision may be waived by the board upon application for review by the proposed supervisor." (Emphasis added).

Thus, social workers in private practice must be supervised by a LSCSW. The general requirements for supervision in both instances are detailed in K.A.R. 102-2-1a(g), as amended May 1, 1987, which provides that "'social work supervision' means the actions and process of critically directing, and overseeing the supervisee's total practice. . . ." The supervisor must be in close geographic proximity to the supervisee's practice, the supervisor assumes ultimate responsibility for the supervisee's services, and the supervisor is to perform administrative, educational, and supportive roles. It can be seen that "supervision" means much more than superficial contact between the supervisor and supervisee.

In summary, only licensed specialist clinical social workers (LSCSW) may engage in the private, independent practice of social work. Social workers not licensed at the LSCSW level may engage in private practice if their practice is supervised by a LSCSW.

Very truly yours,



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