



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 16, 1988

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 88- 21

The Honorable Nancy Parrish
State Senator, Nineteenth District
State Capitol, Room 403-N
Topeka, Kansas 66612

Re: Probate Code -- Care and Treatment For Mentally Ill
Persons -- Voluntary Admission to Treatment
Facilities; Disclosure of Admission to Minor's
Parent

Synopsis: When a minor fourteen years of age or older makes
application for voluntary admittance to a mental
health care facility, the head of the facility or
his designee must promptly notify the minor's
parent or other person in loco parentis, even
over the objection of the minor. The statutes do
not require that a parent give consent prior to
admission or treatment. Cited herein: K.S.A. 1987
Supp. 59-2902(g); 59-2905; K.S.A. 1987 Supp.
59-2907.

* * *

Dear Senator Parrish:

As Senator for the Nineteenth District, you have requested our
opinion concerning voluntary admission to and discharge from a
mental health center by a minor who is fourteen years of age
or older. Specifically you inquire whether the mental health
center must honor the minor's request that parents not be
notified, and whether a mental health center is liable to
parents for treating the minor without parental consent.

A minor who is fourteen years of age or older may be voluntarily admitted upon application to a treatment facility, as defined by K.S.A. 1987 Supp. 59-2902(q), if accommodations in the facility are available and the head of the facility determines that the minor is in need of treatment. K.S.A. 59-2905. The section further states in part:

"[I]f such person is fourteen (14) years of age or over, such person may make such application on his or her own behalf without the consent or written application of such person's parent, guardian or any other person. . . . [When the minor] makes written application on his or her own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the minor's parent or other person in loco parentis of the admittance of such minor." K.S.A. 59-2905. (Emphasis added.)

In addition, if application is made by the minor on his or her own behalf, a request for discharge may be made by the minor. Again, the minor's parent or other person in loco parentis is to be promptly notified of the request. K.S.A. 1987 Supp. 59-2907.

The plain language of the statute indicates that parental consent is not required for admission. A need for treatment is a prerequisite to admission. It would be futile to allow the minor to be admitted without consent of the parent, and with a finding of need for treatment, without allowing treatment to commence without a parent's blessing.

We are not unmindful of the respective rights of children and their parents when it is the parents' decision to commit a minor to a mental health care facility over the minor's objections. See, e.g., Parham v. J.R., 442 U.S. 584, 61 L.Ed.2d 101 (1979). We are also aware that, based on the Constitutional right to privacy, minors may receive family planning services over the objection of the parent. See, e.g., Attorney General Opinion No. 87-66. However, no constitutional question has been raised.

In conclusion, it is our opinion that when a person fourteen years of age or older makes application for voluntary admittance to a mental health center, the head of the facility

or his designee must promptly notify the minor's parent or other person in loco parentis, even over the objection of the minor. The statutes do not require that a parent give consent prior to admission or treatment.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mark W. Stafford
Assistant Attorney General

RTS:JLM:MWS:jm