

*Training Director  
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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

May 12, 1980

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ATTORNEY GENERAL OPINION NO. 80- 99

Sister Mary Carol Conroy  
Acting Executive Director  
Kansas State Board of Nursing  
503 Kansas Avenue, Suite 330  
Topeka, Kansas 66601

Re: Public Health--Examination, Licensure and  
Regulation of Nursing--Practice of Nursing

Synopsis: A person employed as a director of nursing whose duties as director include "administration, supervision or teaching of the [nursing] process," as defined by K.S.A. 1979 Supp. 65-1113(d)(1), must be licensed as a registered professional nurse in order to serve in that capacity. Cited herein: K.S.A. 1979 Supp. 65-1113(d)(1) and 65-1122.

\* \* \*

Dear Sister Conroy:

On behalf of the Board of Nursing, you have asked for our interpretation of K.S.A. 1979 Supp. 65-1113(d)(1). You advise that the Board has become aware that certain individuals in the state who are not licensed as registered professional nurses are serving as directors of nursing, and are thus designated, in several health care facilities in Kansas. You indicate that a person serving in such capacity has responsibility as the chief nursing administrator, and is generally the nurse-in-charge of patient care, and has other nursing administrative functions. You advise that the Board believes that persons not licensed as registered professional nurses serving as directors of nursing as described above are engaged in the illegal practice of nursing by virtue of the definition of

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the practice of nursing set forth in K.S.A. 1979 Supp. 65-1113(d)(1), the statute in question. That provision states, in pertinent part:

"The practice of professional nursing as performed by a registered professional nurse . . . means the process in which substantial specialized knowledge derived from the biological, physical and behavioral sciences is applied to: . . . care, diagnosis, treatment, counsel and health teaching . . . ; administration, supervision or teaching of the process as defined in this section; . . ."  
(Emphasis added.)

We concur in the Board's interpretation of the statute. By a clear statement of its intent, the legislature has included within the definition of the practice of nursing those functions which pertain to the direction and management of licensed personnel engaged in the application of the nursing process, as defined by the statute in question, to insure that appropriate and professional health care services are provided to Kansas consumers. Accordingly, those persons who are employed by health care facilities to manage or direct the nursing process in such facilities, or whose functions may be described as "administration, supervision or teaching of the [nursing] process" must be licensed by the Board as registered professional nurses, for the above-described functions come within the definition of the practice of nursing as set forth in K.S.A. 1979 Supp. 65-1113(d)(1).

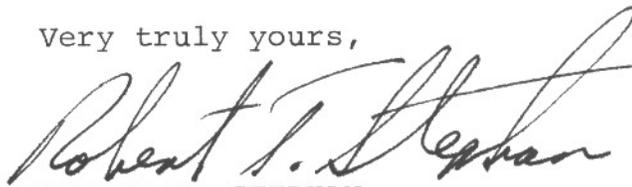
Of course, the foregoing conclusion should not be construed so as to impair the normal functional relationship which exists between a person licensed to practice medicine and surgery and a person licensed to practice professional nursing insofar as that relationship may involve the physician or surgeon's direction and supervision of a nurse in the care and treatment of patients.

Whether a person not licensed as a registered professional nurse who is designated as "director of nursing" is engaged in the illegal practice of nursing in this state must be determined on a case-by-case basis, by examination of the particular duties or functions that person performs under that title. If those duties include "administration, supervision or teaching of the [nursing] process," it is our judgment that such person is thus engaging in the illegal

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practice of nursing, and may be subject to the penalties  
prescribed by K.S.A. 1979 Supp. 65-1122.

Very truly yours,

A handwritten signature in cursive script that reads "Robert T. Stephan". The signature is written in dark ink and is positioned above the printed name.

ROBERT T. STEPHAN  
Attorney General of Kansas

A handwritten signature in cursive script that reads "Steven Carr". The signature is written in dark ink and is positioned above the printed name.

Steven Carr  
Assistant Attorney General

RTS:SC:phf