



Jeff Landry
Attorney General

State of Louisiana

DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

DEC 08 2016
OPINION 16-0110

64-1-C Mental Health

Kathy Lynn Cook
Deputy General Counsel
Louisiana Mental Health
Advocacy Service
302 Dulles Drive Rm. U-47
Lafayette, LA 70506

La. Const., art. VII, sec. 14(A), 14(B)(1), La. R.S. 28:64(A)(2)

If an attorney employed by Louisiana's Mental Health Advocacy Services provides notary services so that an indigent patient at the Tyler Behavioral Health clinic may qualify for mental health services offered by the State, it is not a prohibited donation of state services, because these services are provided under a program of social welfare for the aid and support of the needy, which is specifically excepted from this prohibition.

Dear Ms. Cook:

You requested an opinion of this office concerning the legality of providing notary services to indigent clients in order for these clients to qualify for admission and/or intake into the Louisiana Behavioral Health System. Specifically, you ask us to address whether attorneys working for Louisiana's Mental Health Advocacy Service, a public entity, can provide notarized affidavits of unemployment or no outside income to indigent clients of the Tyler Behavioral Health Clinic without violating the State of Louisiana's prohibition on donating services, funds, or property belonging to the state.

Such prohibitions are outlined in the Louisiana Constitution in Article VII, Section 14 which states, in relevant part, "Except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."¹

However, the following section of that constitutional article outlines limitations on this prohibition, and states that "nothing in this Section shall prevent the use of public funds for programs of social welfare for the aid and support of the needy."² Further, pursuant to the enabling statute responsible for outlining the powers and responsibilities of the Mental Health Advocacy Service, agency attorneys are tasked with providing "legal counsel to all patients requesting such service and who are admitted for treatment pursuant to this Chapter, including, but not limited to, voluntary or involuntary admission, commitment, legal competency, change of status, transfer, and discharge."³

The underlying goal of the statute is to create and promote legal advocacy for indigent members of the population seeking mental health services, and to make these services accessible to the population that is most in need of them. Because this statute provides for legal and mental health advocacy services for indigent citizens seeking

¹ La. Const. art. VII, sec. 14(A).

² La. Const. art. VII, sec. 14(B)(1).

³ La. R.S. 28:64(A)(2).

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psychological or addictive disorder treatment, it is our opinion that the notary services to which you refer are properly classified as the type of program of social welfare for the aid and support of the needy described in La. Const. art VII, sec. 14(B)(1).

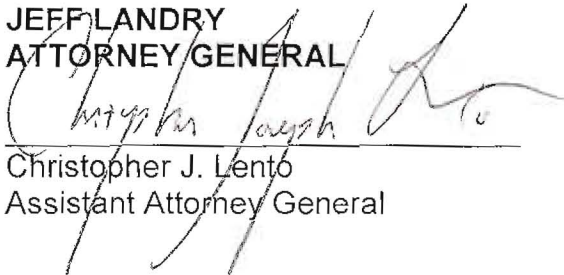
Requiring citizens who are seeking an affidavit establishing that they are unemployed or have no income to pay for notarization of such an affidavit would contravene the goal of lowering the barriers to receiving mental health services for the people who need it most. Therefore, it is the opinion of this office that when citizens are seeking an affidavit of unemployment or no income in order to avail themselves of services provided by the Mental Health Advocacy Service, such a situation falls squarely within the exception to the donation of services of value by a public entity provided in La. const. art VII, sec. 14(B)(1) which allows the use of public funds for programs providing for the aid and support of the needy. If an attorney employed by Louisiana's Mental Health Advocacy Services provides notary services so that an indigent patient at the Tyler Behavioral Health Clinic may qualify for mental health services offered by the State, it is not a prohibited donation of State services, because these services are provided under a program of social welfare for the aid and support of the needy, which is specifically excepted from this prohibition.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance please do not hesitate to contact our office.

Sincerely,

JEFF LANDRY
ATTORNEY GENERAL

By:


Christopher J. Lento
Assistant Attorney General

JL/CJL/jb