Date Issued: July 8, 1981   (AGO 81-72)

Requested by: Keith Trego, Deputy Commissioner
                      North Dakota Game and Fish Department

- QUESTION PRESENTED -

Whether patients of federally funded and/or privately funded hospitals and mental health institutions are required to obtain a license in order to fish.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that patients of federally funded and/or privately funded hospitals and mental health institutions are required to obtain a license in order to fish, although patients of community mental health retardation service units established by chapter 24-12 of the North Dakota Century Code do not need a fishing license.

- ANALYSIS -

Chapter 20.1-03, N.D.C.C., sets forth licensing requirements regarding those persons who wish to hunt, fish, or trap game in this state. Section 20.1-03-04, N.D.C.C., provides exemptions from those licensing requirements. In subsection 4 of this section, it is stated that among those persons exempted from the fishing license requirements are patients under direct therapeutic care of a community "mental health and retardation service unit."

As section 20.1-03-04(4), N.D.C.C., makes reference to "mental health and retardation service units" and as chapter 25-12, N.D.C.C., provides for the establishment of "mental health and retardation service units," it is my conclusion that the Legislature intended to provide that patients of a community mental health and retardation service unit, as established under chapter 25-12, N.D.C.C., who are under direct therapeutic care may fish without a resident fishing license. Since no other similar exception exists, I can only conclude that all other patients of hospitals and mental health institutions must have a fishing license.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD
Attorney General

Prepared by: Terry L. Adkins
              Assistant Attorney General