

The State of South Carolina



Office of the Attorney General

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August 8, 1986

Ms. Doris Brantley
Executive Secretary
State Board of Cosmetology
1209 Blanding Street
Columbia, SC 29201

Dear Ms. Brantley:

You have asked what authority or position the Cosmetology Board should take with regard to the Physical Fitness Services Act [the Act], §44-79-10, et seq., of the Code of Laws of South Carolina, 1976, as amended, to the extent that the Act relates to tanning booths or centers.

The major purpose of the Act is to protect consumers in the contractual aspects of physical fitness services, and is geared primarily to services provided in the long-term through membership in such entities as health spas and health clubs. However, §44-79-20(1) includes "tanning centers" in the definition of "[p]hysical fitness services." Section 44-79-20(5) defines "center" as

. . . any person or organization which, for profit, offers physical fitness services

Thus, even a beauty salon which operates, for example, one "tanning bed" without appointment and without any type of membership requirement, is subject to the Act and must obtain a certificate of authority as mandated by §44-79-80(4), and meet the other requirements of the Act.

The Board's licensure authority is not affected by the Act. Section 40-13-10(1) defines cosmetology, in part, as

. . . by the use of cosmetic preparations, make-up, antiseptics, lotions, creams, chemical preparations, or otherwise, or by waxing, tweezing, cleansing, stimulation, manipulating, beautifying, or similar work, the scalp, face, neck, arms, hands

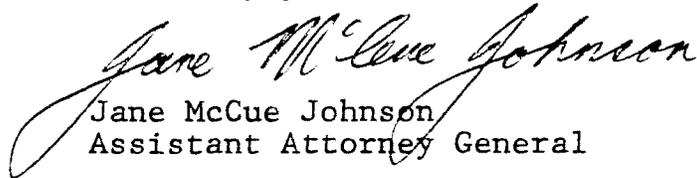
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Since tanning does not fall within the definition, the Board has no authority or duty to license the activity.

To the extent practicable, the Board should bring the Act to the attention of salon owners or operators who provide tanning services, and should refer such persons to the Department of Consumer Affairs. I understand that, when the Act initially went into effect, Consumer Affairs mailed a letter or notice to beauty salons listed in telephone directories, statewide. However, as new salons are licensed, it would be most helpful if the Board were to notify new licensees of the existence of the Act.

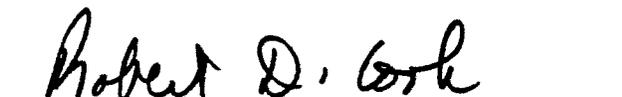
I trust this has answered your question. If I can provide further assistance in this regard, please advise.

Sincerely yours,


Jane McCue Johnson
Assistant Attorney General

JMJ/rho

REVIEWED AND APPROVED:


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