

1983 WL 181749 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 14, 1983

\*1 C. Douglas Chavous  
Executive Secretary  
South Carolina Board of Pharmacy  
Post Office Box 11927  
Columbia, South Carolina 29211

Dear Mr. Chavous:

Thank you for your recent letter requesting an Opinion of this Office concerning two questions.

First, you inquire whether a DHEC inspector from the Bureau of Drug Control may take an original controlled substance prescription out of the pharmacy involved as evidence in an ongoing case.

[Section 44-53-480 of the 1976 CODE OF LAWS OF SOUTH CAROLINA](#) establishes the responsibilities of the DHEC drug inspectors and special agents. Therein they are, among other things, vested with State-wide police powers, authority to carry firearms, and authority to execute and serve search warrants, arrests warrants, administrative inspection warrants, subpoenas, and summonses. Therefore, those inspectors are accordingly vested with general law enforcement authority to seize any evidence of a crime which may be discovered consistent with the requirements of the Fourth Amendment. See e.g., [U.S. v. Rabcicoff, 55 F. Supp. 88.](#)

Furthermore, Section 44-53-500(a) specifically provides for the issuance and execution of administrative inspection warrants through the Courts. Section 44-53-500(b)(3) provides that when so authorized by an administrative inspection warrant, an officer or employee designated by DHEC may, among other things, inspect and copy records required to be kept. Section 44-53-500(b)(4) further provides that the section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant, among other things, with the consent of the owner, operator, or agent in charge of the controlled premises. Therefore, it is clear based upon the statute that formal judicial process may be required, however, the normal situation involves consent which is also a permissible approach.

Second, you inquire whether [Regulation 61-4](#), Section 514, authorizes the entry of information onto a patient profile or into a computer system without having to enter the same information on the back of the original prescription in the filling of prescriptions for controlled substances in Schedules III through V.

Section 514 of R-61-4 of the 1976 CODE by its terms permits computerization of Schedule III through V refill information, and further provides the manner in which such information may be kept. However, Section 304(d) of R-61-4 requires, among other things, that refills of Schedule III through V prescriptions must be indicated on the face of the prescription or on the reverse side thereof. Since the requirement of Section 304 has not been repealed either expressly or by implication, it appears that refills of controlled substances prescriptions must be entered upon the original prescription document as required. Therefore, although one may computerize his records pursuant to Section 514, such computerization would not satisfy the express requirement of Section 304 that refill information be entered upon the original prescription document.

\*2 I trust the preceding adequately answers your questions, however, if any further explanation or assistance is required, please do not hesitate to contact me.

With best personal regards, I am,  
Very truly yours,

Richard P. Wilson  
Assistant Attorney General

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