

1983 WL 181815 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 25, 1983

\*1 Honorable Richard Elliott  
Member  
House of Representatives  
The State House  
Columbia, South Carolina

Dear Representative Elliott:

You have requested our advice as to whether or not a donee can be charged a processing fee for eyes obtained through the South Carolina Eye Bank so as to defray its cost. Although the conclusion is not free from doubt, you are advised that such a fee cannot be charged.

[S.C.Code Ann. § 44-43-460 \(1976\)](#) provides that:

No charge or cost whatsoever shall be made to the donee for such eyes to be used for eyesight—restoration purposes, but nothing in this section shall be construed to prohibit the payment of a reasonable fee to any medical physician or surgeon for performing an operation whereby the donee of such eyes has his eyesight restored.

It is evident from the language, ‘No charge or cost whatsoever’, that the Legislature intended to cast the broadest possible construction upon Section 44-43-160. This expansive language of Section 44-43-160, in effect, prohibits any charge or cost of any description ‘whatsoever’ to the donee. This conclusion is bolstered by the fact that the Legislature could have provided an exception for processing fees as it did for reasonable physician's fees for the donee's operation; inclusion of a specific expression of an exception (reasonable physician's fees) to Section 44-43-160 indicates a legislative intent to exclude all others.

Thus, it appears that Section 44-43-160 prohibits charges and costs of any and all description, except reasonable fees to any medical physician or surgeon performing the donee's operation.

Very truly yours,

Edwin E. Evans  
Senior Assistant Attorney General

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