

1981 WL 157845 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 1, 1981

***1 RE: Physical Therapists**

Kenneth F. Smith, Esquire
Buist, Moore, Smythe & McGee
Post Office Box 999
Charleston, South Carolina 29402

Dear Mr. Smith:

You have requested an opinion as to whether physical therapists are members of a 'profession' and therefore barred from incorporating under the ordinary corporation laws of the state.

As you have noted in your letter, physical therapists are regulated by Title 40, Chapter 45 of the 1976 Code of Laws. They are required to obtain a B.S. degree in physical therapy from a school approved by the American Medical Association.

While no case directly on point has been found, the basic distinction which the cases draw between a profession and a commercial enterprise involves the degree of public service present and the degree of intellectual and educational attainment. While no post-graduate education is required in order for one to enter the field of physical therapy, it would appear that since physical therapy involves direct contact between the practitioner and the patient in matters regarding the health of the patient, it more closely resembles a public service than a commercial enterprise. In such situations, our Supreme Court has indicated that it would be improper to shift the burden of liability from the individual practitioner to a corporation. See [Ezell v. Ritholz](#), 180 S.C. 39, 198 S.E. 419. (1938).

For the foregoing reasons, it is the opinion of this Office that the practice of physical therapy is sufficiently in the nature of a profession as to require the application of §§ 33-51-10 *et seq.*, the South Carolina Professional Association Act, rather than the ordinary business corporation laws.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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