

1977 S.C. Op. Atty. Gen. 78 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-85, 1977 WL 24427

Office of the Attorney General

State of South Carolina

Opinion No. 77-85

March 24, 1977

\*1 Senator Edward E. Saleeby  
P. O. Box 519  
Hartsville, South Carolina 29550

Dear Senator Saleeby:

You have requested an opinion from this Office as to whether or not the proposed medical malpractice legislation can place a statute of limitations upon minors. In my opinion, it can.

As I understand it, the proposed legislation contains a provision that would allow the statute of limitations to begin running as against a minor from age eight. The disability of infancy as a basis to toll the running of a statute of limitations is purely a statutorily created exemption, and there is no constitutional barrier of which I am aware that would prevent the General Assembly from placing limits on, or even abolishing, that disability.

As a general rule under the various statutes limitations do not run against infants during their minority. The exemptions ordinarily granted to infants, however, do not rest on any fundamental doctrine of the law, but on the legislative will expressed in the statutes; infants may be put on the same footing as adults in this respect, and unless excepted they so stand. 54 C.J.S. Limitations of Actions § 235a at 262.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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