

1983 WL 181753 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 16, 1983

*1 Honorable Samuel R. Foster
532-B Blatt Building
Columbia, South Carolina 29201

Dear Representative Foster:

Your letter dated February 3, 1983, addressed to the Attorney General has been referred to me for response. You have asked the opinion of this office concerning the following questions:

- (1) Do the statutes governing physicians, osteopaths, chiropractors, nurses, or podiatrists authorize any or all of them to sign forms verifying a person's illness?
- (2) Can a school board establish a policy which limits the kind of health practitioner the school will recognize as proof of an illness? For example, can the school board require that all excuses for absences because of illness be signed by a medical doctor?
- (3) By legal definition in South Carolina is a chiropractor classified as a physician?

These questions will be answered in the order asked.

1.

The statutes governing physicians (§ 40-47-10 et seq. [Code of Laws of South Carolina](#), 1976, as amended), osteopaths (id.), chiropractors (§ 40-9-10, id.), nurses (§ 40-33-10, id.), and podiatrists (§ 40-51-10, id.) do not explicitly authorize any of these health care professionals to sign forms verifying a person's illness. Neither do these statutes prohibit any of these health care professionals from performing such an act. In the absence of explicit statutory authority or prohibition, the right to execute such a form verifying illness must be regarded as a lawful incident of the right of a licensed practitioner to practice his or her profession provided that the illness, ailment or malady is one which the health care practitioner is licensed to diagnose and/or treat.

2.

Under South Carolina law, the board of trustees of a school district is responsible for the management and control of the district, subject only to the supervision and orders of the county board of education if there is a county board. § 59-19-10, [Code of Laws of South Carolina](#), 1976. In fulfilling its responsibility, the board has the power to make rules and regulations and to adopt policies. § 59-19-90, id.; see also 59 C.J.S. [Schools and School Districts](#) § 494c. at 443-444 (1952). Specifically, within the limits of statutory requirements, a school board may adopt a policy prescribing the conditions under which absences on account of illness will be excused. See 59 C.J.S. [Schools and School Districts](#), § 466b. at 392. To be valid, however, such a policy must not only be consistent with statutory requirements but it must also be reasonable. Id. § 495a.

Pursuant to authority conferred by § 59-65-90, [Code of Laws of South Carolina](#), 1976¹, the State Board of Education has promulgated [Regulation 43-274](#) which defines lawful and unlawful absences beyond those specified in the statutes.² Although this regulation provides, among other things, that '[s]tudents who are ill and whose attendance in school would endanger their health or the health of others[] may be temporarily excused from attendance[,] the regulation does not prohibit a local school

board from adopting a policy requiring that an absent student provide some form of proof of illness before his absence will be excused. Therefore, a school board may, consistent with this regulation, adopt a policy prescribing the conditions under which an absence due to illness will be excused provided the policy is a reasonable one.

*2 A policy which recognizes as valid only proofs of illness signed by a medical doctor or a policy which would accept as proof of illness the signed statement of a podiatrist, nurse or osteopath but not the signed statement of a chiropractor would, in the opinion of this office, be unreasonable. The legitimate interest of the school board that supports the adoption of a proof-of-illness statement in the first instance is the interest in assuring that students are in school unless they have a bona fide illness, injury, or malady that prevents their attendance. This interest is adequately served by a requirement that the student produce a proof-of-illness statement signed by a health care professional licensed by the State of South Carolina to treat and/or diagnose the particular malady with which the student was afflicted during his absence. A school board has no legitimate interest in promoting one type of health care over alternative types of health care when those alternative types of health care are recognized by the laws of this State and the practitioners thereof have been duly licensed to practice by the State of South Carolina.

3.

Concerning your question as to whether, under South Carolina law, chiropractors are classified as physicians, I am attaching a copy of an opinion of this office dated February 22, 1982, as well as a letter dated December 14, 1982, from this office to N. B. Heyward, Executive Director of the South Carolina State Board of Medical Examiners. As a review of this material will reveal, under decisions of the South Carolina Supreme Court, chiropractors are considered physicians but only to the extent that they confine their practice to that which they are authorized to do by statute.

In conclusion, it is the opinion of this office that:

(1) The statutes governing physicians, osteopaths, chiropractors, nurses, and podiatrists do not explicitly authorize any of these health care professionals to sign forms verifying a person's illness; however, the right to execute such a form is an incident of the lawful practice of these professions provided that the particular illness, injury, or malady involved is one which the professional is licensed to treat and/or diagnose;

(2) While a school board may properly adopt a policy requiring students who are absent on account of illness, injury or other malady to present a proof-of-illness form signed by a health care professional licensed to treat and/or diagnose such illness, injury, or malady, a board cannot require that such proof of illness will only be acceptable if signed by one or more particular types of health care professional when other health care professionals are authorized by statute to treat and/or diagnose such illness, injury, or malady;

(3) Chiropractors are physicians but only to the extent that they confine their practice to that which they are authorized to do by statute.

Sincerely,

Vance J. Bettis
Assistant Attorney General

Footnotes

- 1 [Section 59-65-90](#) provides, in pertinent part:
The State Board of Education shall establish rules and regulations defining lawful and unlawful absences beyond those specifically named in this article . . .
- 2 Absence from school on account of illness is not declared by statute to be either lawful or unlawful. Thus, under [§ 59-65-90](#), the State Board of Education has the power to specify whether and under what conditions such absences are lawful.

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