

1981 WL 158114 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 20, 1981

*1 The Honorable Frank E. Barron, III
Coroner of Richland County
Judicial Center
Suite 307
1701 Main Street
Columbia, South Carolina 29202

Dear Mr. Barron:

You have asked the opinion of this office on two questions: 1) whether it would be a conflict of interest for a coroner to have a license to sell life and health insurance, to sell insurance to his immediate family; and 2) whether it would be a conflict of interest for a coroner to own or work for a funeral home in the same county in which he holds office. In regard to the second question, you point out the possibility that the coroner could pronounce someone dead and then embalm the body without getting the opinion of another person authorized to pronounce a person dead.

As to the first question, no statute, regulation, or court decision in South Carolina can be found making this practice illegal. § 38-9-530, CODE OF LAWS OF SOUTH CAROLINA 1976 does, however, make it illegal for someone who owns or is associated with a funeral home to hold a license to sell life insurance.

As to the second question, this practice is not specifically prohibited by law. There is, however, an appearance of impropriety—the suggestion that the coroner could use his office to direct bodies to the funeral home with whom he is associated. See generally two sets of laws: 1) §§ 8-13-410, 420 and 430, CODE OF LAWS OF SOUTH CAROLINA 1976 [part of the State Ethics Act]; and 2) §§ 40-19-190(3)(d) and (e), CODE OF LAWS OF SOUTH CAROLINA 1976 [part of the chapter on embalmers and funeral directors]. The sections of the Ethics Act generally concern using one's public office for financial gain. The sections concerning embalmers and funeral directors authorize the State Board of Funeral Service to refuse to license an embalmer or funeral director who, either by himself or by the use of agents, 'steers' business to a particular funeral home.

Thus, while the practice you have outlined is not specifically prohibited by the above laws, it does have the appearance of impropriety and is not advisable.

As to the possibility you point out of the coroner's pronouncing one dead without another opinion, I refer you to point three of the syllabus of the attached opinion of the Attorney General's Office of May 23, 1978 (1978 Opinions Attorney General, number 78-102, page 131 [syllabus only published]).

Therefore, to summarize, it is the opinion of this office that 1) it is not illegal for a coroner to retain a license to sell insurance to his immediate family, and 2) while it is not illegal for a coroner to work for a funeral home in the county in which he holds office, such a practice would have the appearance of impropriety and should be avoided.

Sincerely,

Eugene W. Yates, III
Assistant Attorney General

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