

1977 S.C. Op. Att. Gen. 77 (S.C.A.G.), 1977 S.C. Op. Att. Gen. No. 77-84, 1977 WL 24426

Office of the Attorney General

State of South Carolina

Opinion No. 77-84

March 23, 1977

*1 Mr. Harold E. Trask, Jr.
Executive Assistant
Office of the Governor
P. O. Box 11450
Columbia, South Carolina 29211

Dear Mr. Trask:

You have requested an opinion from this Office as to whether or not regulation No. 31 of the State Board of Pharmaceutical Examiners (Board) is in conformity with their powers as set out in Chapter 22 of Title 56 of the 1962 South Carolina Code of Laws, as amended. In my opinion, it is.

Regulation No. 31 of the Board, relating to medical clinics and/or dispensaries, provides as follows:

Drugs and pharmaceutical preparations restricted to prescription use only must be dispensed by or under the immediate supervision of the physician in charge. In the event medications are dispensed for 'take home' purposes, such medications must be dispensed by a registered pharmacist and recorded in the same manner as in retail pharmacies. A Pharmacy Permit must be obtained for such clinics.

Pursuant to Section 56–1311.1, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, the Board is empowered to regulate:

. . . the . . . dispensing . . . of drugs, medicines, poisons and physicians' prescriptions and in so doing, shall make, publish, supervise and enforce rules and regulations for . . . the . . . dispensing . . . of drugs, medicines, poisons and physicians' prescriptions. . . .

By this provision, then, the Board is empowered to regulate the dispensing of drugs, etc., and, further, is expressly empowered to carry out that function by means of rules and regulations. Regulation No. 31 represents the exercise of that authority vis a vis medical clinics and/or dispensaries. The only caveat to this authority is contained in Section 56–1310, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, which provides in part:

. . . [n]othing in this chapter [Chapter 22], however, shall be construed as intending to hinder or prohibit any physician or dentist lawfully engaged in the practice of his profession anywhere within this State from putting up his own prescriptions or dispensing his own medicines. [Emphasis added.]

To me, this provision means that a physician or dentist may personally dispense prescription drugs and pharmaceutical preparations which belong to him as he chooses, including for 'take home' purposes. If, however, those prescription drugs and pharmaceutical preparations either do not belong to him or are not personally dispensed by him, then they must be dispensed in accordance with Regulation No. 31 if they are dispensed in a medical clinic or dispensary, *i.e.*, they must be dispensed under the immediate supervision of the physician in charge. Moreover, in the event the medications are for 'take home' purposes, they must be dispensed by a pharmacist and recorded in the same manner as in retail pharmacies. The final requirement imposed by

Regulation No. 31 is that medical clinics and dispensaries must have the pharmacy permit prescribed by Sections 56–1332 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

With kind regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

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