

1977 S.C. Op. Atty. Gen. 178 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-238, 1977 WL 24580

Office of the Attorney General

State of South Carolina

Opinion No. 77-238

August 1, 1977

*1 TO: Cathy Ragsdale, R. N.
Program Nurse Consultant
State Board of Nursing for South Carolina

QUESTION

Must a registered nurse be under the supervision of a physician when piercing ears?

STATUTES, OPINIONS, AND CASES

Section 40-47-40, Code of Laws of South Carolina, 1976;

Section 40-47-260, Code of Laws of South Carolina, 1976;

Advisory Opinion of the Attorney General, November 14, 1969;

Ear Piercing; [Hicks v. Arkansas State Medical Board, 537 S.W.2d 794 \(1976\)](#).

DISCUSSION

The practice of medicine is defined in Section 40-47-40, Code of Laws of South Carolina, 1976, as follows:

Any person shall be regarded as practicing medicine within the meaning of this article who (a) shall as a business treat, operate on or prescribe for any physical ailment of another, (b) shall engage in any branch or specialty of the healing art or (c) shall diagnose, cure, relieve in any degree or profess or attempt to diagnose, cure or relieve any human disease, ailment, defect, abnormality or complaint, whether of physical or mental origin, by attendance or advice, by prescribing, using or furnishing any drug, appliance, manipulation, adjustment or method or by any therapeutic agent whatsoever.

The references in that section deal with the diagnosis and treatment of physical or mental ailments. Because the piercing of ears does not deal with the diagnosis or treatment of a physical or mental ailment, it would not constitute the practice of medicine as defined in this section. See Advisory Op. Atty. Gen., Nov. 14, 1969. One State Supreme Court has held that the piercing of ears did not come within its statutory definition of the 'practice of medicine,' which definition included 'performing any kind of surgical operation upon a human being.' [Hicks v. Arkansas State Medical Board, 537 S.W.2d 794 \(1976\)](#). Moreover, as noted in that opinion, the states of Texas, Arizona, Virginia, Kansas, New Jersey, Georgia and California have, through opinions rendered by their respective attorneys general or state medical boards, excluded the piercing of ears as a procedure included in the definition of the 'practice of medicine.' [Supra at 796](#).

Section 40-47-260 of the Code prohibits any person in this State from practicing medicine in violation of the provisions of Article One. If any act does not come within the purview of Section 40-47-40, it would not constitute the practice of medicine

and would not be prohibited by Section 40–47–260. Since the piercing of ears is not included in the definition of the practice of medicine, this procedure would not require the supervision of a physician.

CONCLUSION

Because the piercing of ears does not come within the definition of the practice of medicine as defined by Section 40–47–40 of the Code, it is not prohibited by Section 40–47–260. Therefore, the piercing of ears by a registered nurse need not be under the supervision of a licensed physician.

*2 Carol Connor Murphy
Staff Attorney

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