

1977 S.C. Op. Atty. Gen. 214 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-278, 1977 WL 24618

Office of the Attorney General

State of South Carolina

Opinion No. 77-278

September 8, 1977

*1 To: Honorable Robert C. Lake, Jr.
Attorney at Law

QUESTION

May the South Carolina Industrial Commission furnish Blue Cross and Blue Shield of South Carolina information concerning individual claims for benefits under the South Carolina Workmen's Compensation Act?

STATUTES

Section 42-19-40 and Section 30-3-20, Code of Laws of South Carolina, 1976.

DISCUSSION

Apparently, Blue Cross and Blue Shield of South Carolina would like the South Carolina Industrial Commission to furnish it information concerning claims for Workmen's Compensation, so that Blue Cross and Blue Shield can prevent making payments for medical treatment already covered by Workmen's Compensation. Two statutes control this question. First, Section 42-19-40, which is contained in South Carolina's Workmen's Compensation Act, states:

The records of the Commission [South Carolina Industrial Commission], insofar as they refer to accidents, injuries and settlements, shall not be open to the public, but only to parties satisfying the Commission of their interest in such records and of the right to inspect them.

This statute evinces a policy that the Commission's records are not to be opened to public inspection. While Blue Cross and Blue Shield might satisfy the Commission of its 'interest in such records,' Blue Cross appears to have no 'right to inspect' such records when it is not a party to any proceeding before the Commission.

Section 30-3-20, contained in the Freedom of Information Act, states in part:

'Public Records' means the records of meetings of all public agencies and includes all other records which by law are required to be kept or maintained by any public agency, and includes all documents containing information relating to the conduct of the public's business prepared, owned, used or retained by any public agency, regardless of physical form or characteristics. Records such as income tax returns, medical records, scholastic records, adoption records and other records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter, nor shall the definition of public records include those records concerning which it is shown that the public interest is best served by not disclosing them to the public.

Thus, the intention of the South Carolina General Assembly is clear, in that 'medical records' maintained by a public agency are not subject to public inspection.

Finally, North Carolina has a statute identical in wording to Section 42–19–40. Addressing the same question as presented here, the Attorney General of North Carolina rendered an opinion that the North Carolina Industrial Commission was prohibited from supplying Blue Cross and Blue Shield with Commission records on Workmen's Compensation claims. A copy of the North Carolina opinion is attached hereto.

CONCLUSION

Section 42–19–40, Code of Laws of South Carolina, 1976, prohibits the South Carolina Industrial Commission from providing information to Blue Cross and Blue Shield of South Carolina concerning Workmen's Compensation claims in which Blue Cross and Blue Shield is not a party to a claim.

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