

1979 WL 43040 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 31, 1979

*1 Ms. Beatrice R. Mackey, R.N.; M.S.N.
Post Office Box 620
Winnsboro, South Carolina 29180

Dear Ms. Mackey:

Your request for an opinion concerning the legality of employing an advanced EMT at Fairfield Memorial Hospital in the emergency room and on the floor has been received by me. Ordinarily this Office does not answer requests from county institutions unless they are referred to us by the county attorney or by a State agency. In this instance, I contacted the Board of Nursing and was informed that had your letter been sent to the Board of Nursing it would have been forwarded to me for response. For that reason, I am responding directly to you.

It is my conclusion that there is no legal basis for an EMT functioning in a hospital setting. [South Carolina Code Section 40-47-40](#) defines the practice of medicine 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 speciality 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 therapeutics agent whatsoever.

[South Carolina Code Section 40-47-260](#) makes it a criminal violation to practice medicine without a license. South Carolina Code Section 40-27-240 provides that the definition of practice of medicine is not to be construed to 'apply or to change the laws relating to dentists, trained nurses, pharmaceuticals, opticians and optometrists or midwives.' [South Carolina Code Section 40-33-10\(f\) and \(g\)](#) defines the practice of professional nursing and practical nursing.

Emergency medical technicians are unlicensed personnel who are certified by the Department of Health and Environmental Control (DHEC). Their clear function is to provide emergency medical services. The Emergency Medical Services Act ([South Carolina Code Section 44-61-10](#), et seq.) clearly envisions that the services are not performed in an institution but rather in the field. This is emphasized by the fact that the act deals in great detail with the requirements for ambulances. The regulations concerning EMT are contained in a chapter titled 'Ambulance Service' DHEC Rules and Regulations 61-7. The stated purpose of these regulations is to 'set forth the minimum standards for ambulance operation which will best preserve and protect the public health in South Carolina.' (DHEC Rules and Regulations 61-7). The advanced EMT functions under the supervision of a physician and is only authorized to function in the field. He has no statutory or regulatory authority to function in an institution.

To the extent that an EMT performs acts beyond that of a nursing assistant on a patient in an institution, he would violate the law governing medicine and nursing subjecting himself to a potential criminal prosecution and increasing your institution's exposure to suit.

*2 Thank you for your inquiry. If you have any further questions, please feel free to contact me.
Sincerely,

Kay G. Crowe
Assistant Attorney General

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