

1978 WL 34704 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 15, 1978

\*1 Ruth Q. Seigler, R.N.  
Executive Director  
State Board of Nursing for South Carolina

### QUESTION

Does the State Board of Nursing for South Carolina have the authority to promulgate regulations regarding the delegation and supervision of nursing practice?

### AUTHORITIES

[§ 40-33-10, et. seq., Code of Laws of South Carolina](#), 1976; 91 C.J.S. [Public Administrative Bodies and Procedures](#), § 112; [Beard Laney, Inc. v. Darby](#), 49 S.E.2d 564, 213 S.C. 380 (1948); [Cole v. Manning](#), 240 S.C. 260, 125 S.E.2d 621 (1962); [Terry v. Pratt](#), 258 S.C. 177, 187 S.E.2d 884 (1972); [Faile v. S.C. Employment Sec. Comm.](#), 230 S.E.2d 219 (1976).

### DISCUSSION

The State Board of Nursing for South Carolina is given by statute the power of supervision over the practice of nursing in South Carolina. The powers of the Board are delineated in [§ 40-33-210 et. seq. of the Code of Laws of South Carolina](#), 1976. Section 40-33-270 gives the Board the authority to:

. . . make such rules and regulations as it may deem necessary for the purposes of carrying out the provisions of this chapter . . .

[Section 40-33-10\(g\)](#) in defining the term practice of professional nursing states in pertinent part that:

The practice of professional nursing includes the teaching and administration, supervision, delegation and evaluation of nursing practice.

In general, administrative bodies have the authority to make or adopt rules and regulations with respect to matters which are within the province of the body. The provisions of the statute control as to what areas rules and regulations may deal with. The rules and regulations can properly function to effectuate the purpose of the legislation. *See*, 91 C.J.S. [Public Administrative Bodies and Procedures](#), § 112.

In dealing with the power of the Public Service Commission to approve a transference of a trucking certificate, the South Carolina Supreme Court stated that a governmental body of limited power is not in a strait jacket in the administration of the laws under which it operates because it also possesses powers which may be inferred or implied in order to effectively exercise the expressed powers possessed by it. [Beard Laney, Inc. v. Darby](#), 13 S.C. 380, 49 S.E.2d 564 (1948).

The validity of specific rules and regulations must of course depend on the actual content of the rules and regulations but the authority of an administrative body to enact rules and regulations within the scope of the law governing the

administrative agency is clearly established. [Cole v. Manning](#), 240 S.C. 260, 125 S.E.2d 621 (1962); [Terry v. Pratt](#), 258 S.C. 177, 187 S.E.2d 884 (1972). [Faile v. S.C. Employment Sec. Comm.](#), 230 S.E.2d 219 (1976).

The Board is given the power to supervise the practice of nursing in South Carolina and has the power to promulgate rules and regulations. The practice of professional nursing includes delegation and supervision. It is the opinion of this office that the Board has the general power to promulgate rules and regulations concerning the delegation and supervision of nursing practice.

#### CONCLUSION

**\*2** The South Carolina Board of nursing has the general authority to promulgate rules and regulations concerning the delegation and supervision of nursing practice.

Kay G. Crowe

1978 WL 34704 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.