

1978 WL 34813 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 28, 1978

***1 RE: Opinion request related to § 44-23-30**

Honorable Joe A. Sanders
Associate Judge of Probate
Richland County Courthouse
Columbia, South Carolina 29201

Dear Judge Sanders:

I am writing relative to your request for an opinion from this Office of March 20, 1978, requesting an interpretation as to whether or not § 44-23-30 would permit a non-resident licensed physician to appear as a designated examiner in a emotional health commitment proceeding.

[Section 44-23-30 of the 1976 Code](#) was originally adopted in 1960. (Act No. 825 of 1960). The Act amended the former commitment act commonly referred to as the 'two doctor certification' method of commitment by permitting non-resident licensed physicians to certify individuals as eligible for commitment to mental health institutions in this State in certain instances.

The mental commitment laws of this State underwent comprehensive revision in 1974. A review of the original draft of the 1974 Act and comments thereto make no mention of the predecessor to [§ 44-23-30](#) (§ 32-913). It is apparent that since 1974, designated examiners in a commitment procedure have greater obligations and responsibilities to the Court and of necessity, must be within the jurisdiction of the courts of South Carolina in order to be compelled to make reports and attend hearings. It therefore appears that the General Assembly consciously omitted 'non-resident licensed physicians' from the scope of individuals who may be designated by the court as examiners in commitment cases. See §§ 44-17-410 and 44-17-530.

Consequently, you are advised that [§ 44-23-30 Code of Laws of South Carolina](#), 1976, as amended does not broaden the express language of the commitment statutes to permit the court to appoint a non-resident licensed physician as a designated examiner. If this Office can be of further assistance, please feel free to contact us.

I remain,
Very truly yours,

Edwin E. Evans
Assistant Attorney General

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