

1978 WL 34851 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 12, 1978

*1 Ms. Jacquelyn S. Dickman
Staff Attorney
S. C. Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Dear Ms. Dickman:

You have requested an Opinion from this Office as to whether the Department of Health and Environmental Control can purchase override policies through the South Carolina Patient Compensation Fund (§ 38-59-110 et seq., of the S. C. Code) for the physician employed by the Department. Such policies would be to supplement the basic coverage purchased from General Services.

It is the Opinion of this Office that the purchase of these policies is prohibited by Act No. 182 of 1977. Section 4 of Act No. 182, providing for the purchase of liability insurance to protect employees from tort liability, reads in part:

The State Budget and Control Board, through the Division of General Services, is authorized to provide insurance for . . . physicians or dentists employed by the State . . . against any tort liability arising out of the rendering of any professional services [in their capacity as state employees].

Section 4 further states:

The procurement of tort liability insurance in the manner herein provided shall be the exclusive means for the procurement of such insurance. (emphasis added).

Only public hospitals are exempt from this exclusivity and the specific language of the Act clearly indicates an intent for the State to purchase employees' malpractice insurance only through General Services. The Act, however, does not prohibit the employed physician or dentist from supplementing General Services insurance through 38-56-110 et seq., on an individual basis.

Sincerely,

A. Camden Lewis
Sr. Assistant Attorney General

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