

1974 WL 27692 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1974

***1 RE: County Hospitals**

Honorable James P. Harrelson
Senator
Senatorial District No. 15
Drawer 732
Walterboro, S. C. 29488

Dear Senator Harrelson:

The Attorney General has asked that I reply to your letter of March 19, 1974, regarding whether a county hospital, operating through its Board of Trustees, may place conditions upon the availability of staff privileges to one licensed doctor, when these conditions have not been imposed upon other doctors. More precisely, the question is whether newly enacted hospital regulations, pertaining to staff physicians who have a history of alcohol and/or drug addiction, may now be placed upon one physician when such regulations have not been placed on other physicians in the past.

The Equal Protection Clause of the State and Federal Constitutions protects all citizens against governmental activity which discriminates against persons without a valid reason. See [U.S. Const. amend. XIV, § 1](#); S.C. Const. art. 1, § 3. As stated in [United States Fidelity and Guaranty Company v. City of Newberry](#), 257 S.C. 433, 186 S.E.2d 239 (1972): Compliance with the equal protection clauses of the Constitutions requires that any classification be not arbitrary . . . and that all members of each class be treated alike under similar circumstances. [257 S.C. at 440](#).

This does not mean, of course, that persons cannot be treated differently. It does mean that in cases where people are treated differently by a governmental entity, that there must be a reasonable set of facts which forms a basis for distinguishing one case from the next.

In the situation presented, involving a county hospital, it is certain that if two doctors evidenced identical case histories of addiction to drugs or alcohol, then the Board of Trustees must, under the law, treat them identically. However, whether any two doctors have identical, similar, or different case histories is a question of fact for the Board of Trustees, subject to review by the courts. Conditions imposed upon each doctor may vary in a reasonable relationship with the variance in the respective case histories. Questions of fact which might be considered include the severity of the addiction, the recency of addiction, the success of rehabilitation efforts, and the effect of such addition upon professional abilities.

Finally, these previously cited constitutional provisions would also require that rules and regulations established by a county hospital must be reasonably necessary to the proper operation of the hospital, and also that such rules and regulations, and all changes, be made known to those persons affected.

If this office can be of further assistance in this matter, please correspond.

Very truly yours,

John B. Grimball
Assistant Attorney General

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