

1973 WL 26998 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 11, 1973

\*1 Mr. J. Archibald  
Executive Secretary  
American College of Veterinary Surgeons  
Ontario Veterinary College  
Guelph, Ontario  
Canada

Dear Sir:

You have inquired as to the legal liability of veterinary surgical graduate students acting in an assistant's capacity in hospital operations on humans.

First, I know of no precedent in this State for veterinary surgical graduate students assisting in operations on humans. There does exist authorization under Section 56-354, S.C. Code of Laws, as amended, for unlicensed aides and assistants to perform selected acts of nursing pursuant to the instruction and under the direction of a licensed physician . . . ' This no doubt would permit such a student to assist in the operation. However, any assistance requiring such a student to exercise any independent judgment affecting treatment of the patient is probably subject to licensure under either The South Carolina Medical Practice Act or the South Carolina Nurse Practice Act in order to be legal. See Sections 56-351 thru 1005, and Sections 56-1351 thru 1374, S. C. Code of Laws, as amended. If such a student did exercise independent judgment affecting the care or treatment of a human patient, he could likely be prosecuted criminally for practicing medicine or nursing without a license. And, of course, for purposes of a civil suit, if such a student did exercise independent judgment, he would be held to the professional standards of a licensed surgeon or nurse, in accordance with normal negligence law principles.

In cases where a student acting as an assistant does not exercise any independent judgment, then assuming that he follows the supervising surgeons instructions accurately, responsibility for any improper treatment received by the patient would be with the surgeon rather than the student.

Very truly yours,

John B. Grimball  
Assistant Attorney General

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