

1972 S.C. Op. Atty. Gen. 86 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3282, 1972 WL 20426

Office of the Attorney General

State of South Carolina

Opinion No. 3282

March 15, 1972

***1 Re: Controlled Substances: OBO Health Center; Beaufort County**

The Honorable John C. West

Governor

State of South Carolina

State House

Columbia, South Carolina

Dear Governor West:

Mr. McLeod has referred to me the Health Department's question related to the dispensing of controlled substances by a Health Center in Beaufort County.

It is my information that the Health Center is registered under the Drug Act as a pharmacy to possess and dispense controlled substances. The Center wishes to establish so-called satellite stations in other parts of the County where controlled substances will be stored for the use of medical doctors, practitioners under the Drug Act, who will go to such stations and compound and dispense controlled substances from there.

It has been the position of the Chief Drug Inspector that practitioners under the Drug Act may not lawfully compound and dispense controlled substances at such stations because the doctors do not own such substances, although they may compound and dispense substances which they do own. I can find no support for this position. It appears to me that applicable laws empower properly licensed and registered medical doctors to compound and dispense controlled substances in accordance with law, whether such substances are owned by them or are owned and possessed lawfully by someone else.

In a conversation with me today, the Chief Drug Inspector indicated his willingness to abandon the foregoing position.

Since the Health Center is registered as a pharmacy, however, it must be operated in accordance with provisions of Section 56–1301 et seq., 1962 Code of Laws of South Carolina, as amended, regulating pharmacies. One of the restrictions imposed upon the operation of pharmacies is contained in Section 56–1310.1:

‘No registered pharmacist shall have personal supervision of more than one pharmacy or drugstore at the same time.’

Section 56–1332 provides:

‘If it is desired to operate more than one pharmacy, separate applications shall be made and separate permits issued for each.’

There is little doubt that the intent of the pharmacy law is that each pharmacy shall be restricted to a single building and that each shall be supervised exclusively by a registered pharmacist. In view of these requirements, it is the opinion of this office that the system of satellite operation reportedly proposed by the Health Center is unlawful. Although the system does not contemplate dispersing of controlled substances by Health Center employees of the satellite stations, possession of controlled substances at the stations cannot be justified under present statutes and promulgated rules and regulations.

It appears that there is ample authority under Section 21 of Act 445, 1971, the Drug Act, for the Board of Health to register qualified applicants as distributors, under proper controls set forth in applicable rules and regulations promulgated pursuant to the Act, if the Board wishes to do so. Simple storage and distribution of substances to practitioners could be accomplished lawfully by these means.

Very truly yours,

*2 Joseph C. Coleman
Deputy Attorney General

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