

1977 S.C. Op. Atty. Gen. 81 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-90, 1977 WL 24432

Office of the Attorney General

State of South Carolina

Opinion No. 77-90

March 30, 1977

**\*1 Re: Apollo Health Club Clearwater, South Carolina**

John H. Williams, Esquire  
Williams and Johnson  
Post Office Box 463  
Aiken, SC 29801

Dear Mr. Williams:

In a recent letter to the South Carolina Law Enforcement Division, you stated that in your opinion Aiken County had no authority to license a massage parlor because the County has no business license requirement. You also asked whether there might be a law which empowered the county to issue such licenses. The Division forwarded your letter to me for reply.

The legislation which provides for the issuance of licenses to massage parlors by counties or municipalities is Act No. 281 of 1975, Section 5(c), which is codified as Section 56-834(c), 1962 Code of Laws. This section provides as follows:

The Division, after completing its investigation, shall forward the application for a license to the governing body of the appropriate municipality or to the governing body of the appropriate county when the location of the business is to be outside of a municipality, together with its recommendation to issue or refuse to issue a license.

The appropriate governing body shall then issue or refuse to issue a license, but no license may be issued unless it is recommended by the Division.

The issuing authority may charge a business license fee on the same basis as other business licenses. (Emphasis added).

Assuming without concluding that Section 14-3703(12), which is part of the Home Rule Act of 1975, does not empower counties to license massage parlors, it is nevertheless the opinion of this Office that Section 56-834(c) quoted above in itself provides such authority. This is indicated by the General Assembly's use of the word 'shall' in the next to last sentence, in contrast to 'may' in the last sentence. The General Assembly apparently recognized that these licenses would be administratively handled like other county business licenses, but in making the license fee optional with the county or municipality clearly indicated that a massage license was not the same as an ordinary business license, but instead was an entirely separate license created by the massage parlor act itself. Needless to say, however, if Clearwater is an incorporated municipality and the Apollo Health Club is within its limits, only the municipality would be empowered to issue the license.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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