

1977 S.C. Op. Atty. Gen. 185 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-254, 1977 WL 24595

Office of the Attorney General

State of South Carolina

Opinion No. 77-254

August 12, 1977

*1 TO: Nathaniel B. Heyward
Executive Director
State Board of Medical Examiners

QUESTION:

Can a Physician Assistant legally write patient care orders on a hospital environment?

STATUTES AND CASES:

Regulation Number 1.7 of the State Board of Medical Examiners.

DISCUSSION:

Relevant to this issue are Regulation No. 1.7, an Application for a P.A. certificate, and 'Tasks Requested but no Currently Approved' as adopted by the Board, August 6, 1975. Board Regulation No. 1.7 states:

Assistants shall not: a) examine any new patient not previously examined by the supervising physician; b) diagnose diseases or ailments; c) write prescriptions; d) bill patients; e) perform any task which has not been listed and approved on his/her application currently on file with the Board; f) perform any task without the supervising physician being either physically present or immediately available to provide further guidance.

To allow a P.A. to walk into a hospital, look at a patient and order a drug for said patient, all without the physician being anywhere in the hospital, is action completely in contradiction to the clear and unambiguous wording of the Regulation and quite possibly action which can be construed as practicing medicine.

When a drug is prescribed, diagnostic analysis is prerequisite to the writing of the prescription; therefore, when a P.A. writes an order or prescription (a questionable distinction at best) without the immediate presence of a physician and consequentially the aid of a physician, a certain degree of diagnostic analysis, even if elementary, is inherent in the choosing and ordering the drug. The writing of an order by a P.A. not accompanied by a physician requires a diagnosis by the P.A. which is in clear contravention of the Regulation.

Secondly, subsection (f) of the Regulation explicitly requires a physician to either be 'physically present' or immediately available when a task is performed by a P.A. The clause, 'Physically present' is obvious in meaning and therefore in no need of elaboration; however, the phrase 'immediately available' could present areas of dispute. A guide which helps provide a definitive treatment of this gray area is the use of the words 'physically present' and not just 'present.' Such word use lends one to interpret 'immediately available' in a restrictive, rather than broad manner, so as not to require a physician to be in the same room, but to require a physician to be no further than the hallway or maybe the adjoining room. Logic also dictates such a conclusion, for to allow a P.A. to write orders, give IV's, give injections, etc., without direct supervision of a physician is to allow someone to do procedures which nurses are unable by law to do; procedures which only R.N.'s can do and in the case

of an order, even an R.N. must get express approval by a doctor. The meaning to be drawn from the words in subsection (f) requires that subsection (f) be controlling in an analysis relating to the legality of a P.A.'s task assignments.

*2 Further, the P.A. application reiterates the above arguments, for under Item 6 is found: 'hospital rounds . . . with supervising M.D. and return within 24 hours to carry out orders of the supervising M.D.' The only tasks to be performed by a P.A. without a physician being physically present are those ordered by the M.D. Note that in going back to a hospital without the physician, the P.A. is not given authority to write orders or instigate other tasks not ordered by the physician, but is explicitly limited to those tasks ordered by the physician. Independent thought and action are removed from the P.A. out of the physical presence of a doctor.

Also, in a listing by the Medical Board, entitled 'Tasks Requested but not Currently Approved (dated August 6, 1975)' the following is found: 'Give or change orders without consulting M.D. and M.D. must give all orders to nurses.' Unequivocally, the P.A. is denied the right to write orders as a result of this list.

CONCLUSION:

Board Regulation Number 1.7 supplemented by the Physician Assistant Application and 'Tasks Requested but not Currently Approved' as adopted by the Board August 6, 1975, dictates the conclusion that a physician assistant is legally prohibited from writing patient care orders on a hospital environment.

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