

1977 S.C. Op. Atty. Gen. 246 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-318, 1977 WL 24657

Office of the Attorney General

State of South Carolina

Opinion No. 77-318

October 12, 1977

*1 TO: Dr. William A. Buck
President
South Carolina State Board of Dental Examiners

QUESTION

Can a licensed dentist operate a commercial dental laboratory using non-registered dental technicians?

If the answer to the above question is positive, is the dentist required to be on the premises at all times the work is being performed?

AUTHORITIES

§ 40-15-10, et seq., Code of Laws of South Carolina, 1976; [McClohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753; [Hatchett v. Nationwide Mut. Ins. Co.](#), 244 S.C. 425, 137 S.E.2d 608; [State ex rel Mcleod v. Holcombe](#), 245 S.C. 63, 138 S.E.2d 707; [Botton v. Doe](#), 266 S.C. 344, 223 S.E.2d 187; [Bizzelle v. State](#), 116 S.W.2d 385.

DISCUSSION

Several provisions of the law relating to the practice of dentistry permit in prescribed situations dental technological work by unlicensed individuals. Applicable portions of these statutes reads as follows:

Nothing in this chapter shall prevent a person from performing dental technological work provided: . . . (b) such work is performed by or under the direct supervision and control of a licensed dentist and on his premises, or by or under the direction and control of a registered dental technician present on the premises, . . . § 40-15-110, Code of Laws of South Carolina, 1976. (Emphasis added).

. . .

Any person who:

(c) Performs dental technological work without being registered by the Board or if unregistered, without performing such work under the direction and control of a registered dental technician present on the premises, or under the direction and control of a licensed dentist and on his premises; shall be deemed guilty of a misdemeanor. . . § 40-15-120, Code of Laws of South Carolina, 1976.

. . .

Any person other than a licensed dentist, who accepts dental technological work from the general public shall be deemed guilty of practicing dentistry without a license . . . § 40-15-340, Code of Laws of South Carolina, 1976.

...
Unlicensed personnel in a dental office may perform tasks which require no formal dental training only when they do so under the direct supervision of a licensed dentist present on the premises. . . § 40-15-110, Code of Laws of South Carolina, 1976. (Emphasis added).

The supreme rule in construction of statutes is that legislative intent must prevail if it can be reasonably be discovered in the language used. [Cf. McClohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753; [Hatchett v. Nationwide Mut. Ins. Co.](#), 248 S.C. 425, 137 S.E.2d 608. The legislature has recognized the need to regulate the practice of dentistry in order to insure that health services administered to the public are rendered by competent trained individuals. [State ex rel McLeod v. Holcombe](#), 245 S.C. 63, 138 S.E.2d 707. Accordingly, the statutes in question must be construed to give effect to this purpose.

The statutes generally provide that dental technological work can be performed by unlicensed personnel if:

- *2 1. It is done under the direct supervision and control of a licensed dentist;
- 2. It is done on the dentist's premises. (See §§ 40-15-110 and 40-15-120)

In addition, § 40-15-110 imposes the requirement that unlicensed personnel may perform work under the direct supervision of a licensed dentist on the premises. The statutory provision when read together emphasize that dental technological work can be performed by unlicensed individuals under the direct supervision and control of a licensed dentist and done on the dentist's premises. However, it cannot be said that 'direct supervision and control' requires that the dentist be present at all times. A statute is not to be read in an atmosphere of sterility, but in context of what actually happens when human beings go about the fulfillment of its purposes. [Botton v. Doe](#), 266 S.C. 344, 223 S.E.2d 187. It is well understood that a dentist may go about his daily activities which would include leaving his office for lunch or occasional appointments; however, the dental technological work conducted on his premises may continue. [Cf. Bizzelle v. State](#), 116 S.W.2d 385. 'Direct supervision and control on his premises' does require close scrutiny, actual direction and observation, all of which would have to occur on the dentist's premises during hours which he or she is regularly present.

The statute does not distinguish between the operation of a commercial or noncommercial laboratory under the direct supervision and control of a dentist. As such, if the laboratory was operated in accordance with the statutory provisions cited herein it would not constitute the unlicensed practice of dentistry.

CONCLUSION

Unlicensed personnel may perform dental technological services under the direct supervision and control of a licensed dentist and on the dentist's premises. Such a requirement does not mandate that the dentist be present at all times, but he must regularly be on the premises actually involved in supervision and control. The law makes no distinction between commercial and noncommercial dental technological work.

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