

1979 WL 43130 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 23, 1979

*1 T. H. Rawl, Esquire
Lexington County Attorney
Post Office Box 846
Lexington, South Carolina 29072

Dear Mr. Rawl:

I am writing in response to your request as follows:

‘The specific issue has been raised as to whether the Medical Practice Act, specifically Section 40-47-40 prohibits expectant fathers' participation with the delivery process in a hospital setting beyond his mere presence in lending support to the delivering mother including allowing the expectant father to cut the umbilical cord, massage the fetus or in otherwise assisting the physician in removing the infant through or out of the birth canal.’

Pursuant to [Section 40-47-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, no person can practice medicine unless authorized under the provisions of Chapter 47 of Title 40 of the South Carolina Code of Laws. The practice of medicine is defined by Section 40-47-40 as follows:

Any person shall be regarded as practicing medicine within the meaning of this article who (a) shall as a business treat, operate on or prescribe for any physical ailment of another, (b) shall engage in any branch or speciality of the healing art or (c) shall diagnose, cure, or relieve any human disease, ailment, defect, abnormality or complaint, whether of physical or mental origin, by attendance or device, by prescribing, using or furnishing any drug, appliance, manipulation, adjustment or method or by any therapeutic agent whatsoever.

The determination of whether or not isolated acts constitute the practice of medicine is beyond the scope of this Office if those acts involve something other than acts which even a layman can identify as the practice of medicine, *e.g.*, the performance of surgical procedures. Those physicians who allow isolated acts which may be included within the practice of medicine to be performed by unlicensed persons under their direct supervision may be assuming a risk of liability against which neither this Office nor the State Board of Medical Examiners has any present authority to insulate them. Inasmuch as the question is one that is not free from doubt, a judicial determination made pursuant to [Sections 15-53-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (‘the Uniform Declaratory Judgments Act’), provides the only definitive means by which to resolve it.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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