



*LLR'S PERSPECTIVE: THE WHO, WHAT, WHY, WHEN AND WHERE  
OF THE RECENT ADVISORY OPINION ON THE CONVERGENCE  
OF THE CORPORATE PRACTICE OF MEDICINE AND  
SUPERVISION OF UNLICENSED PERSONNEL*

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# WHO?

- ▶ Both LLR and its boards, including the State Board of Medical Examiners and State Board of Nursing, are creatures of statute.
- ▶ S.C. Code 40-1-40 (POL's Purpose)
- ▶ S.C. Code 40-47-10 (BME)
- ▶ S.C. Code 40-33-10 (BON)



LLR's mission is to promote the health, safety and economic well-being of the public through regulation, licensing, enforcement, training and education. Our mission goes hand-in-hand with the Governor's effort to raise personal incomes of South Carolinians by creating a better environment for economic growth, delivering government services more openly and efficiently, improving quality of life, and improving our state's education.

# Who is the BME?

The Grinch?



A Friendly Guide?



# The BME's Authority to Issue Advisory Opinions

S.C. Code Ann. §40-47-10(I) In addition to the powers and duties enumerated in Section 40-1-70, the board may:

(1) publish advisory opinions and position statements relating to practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of practice;

(5) use minimum standards as a basis for evaluating safe and effective medical practice;

# Who is Impacted?



Licensees  
Unlicensed Personnel  
Patients

# What?

- ▶ An advisory opinion is intended to provide guidance to licensees and employers of licensees.
- ▶ It is neither a statute or regulation and does not have the force and effect of law.
- ▶ It does not create a binding norm.
- ▶ Every complaint will be evaluated on the individual facts and circumstances presented when a board must determine if a violation has occurred.

# Why?







# Online Colleges

Picking The Right One for YOU!



Entrepreneurial Spirit 

# Convergence



- ▶ Statutory law (duty to supervise) vs. common law (corporate practice of medicine)
- ▶ Entrepreneurial spirit vs. traditional practice models
- ▶ Reimbursement/Cost Containment/ Managed Healthcare vs. Quality Initiatives
- ▶ Move toward Baccalaureate-educated nurses vs. LPNs
- ▶ Corporate-owned delivery systems vs. clinical judgment

# Clarification

- ▶ “Employ”
  - ▶ In a corporate-owned practice, the physician is a co-worker, not an employer.
  - ▶ The physician didn't hire or train the unlicensed person and does not have termination authority.
- ▶ Licensed vs. Unlicensed
  - ▶ This does not affect a physician's ability to delegate medical tasks to other licensed professionals.
  - ▶ On-Site and Readily Available
  - ▶ Unlicensed personnel should not do licensed tasks or tasks posing significant risk to patient

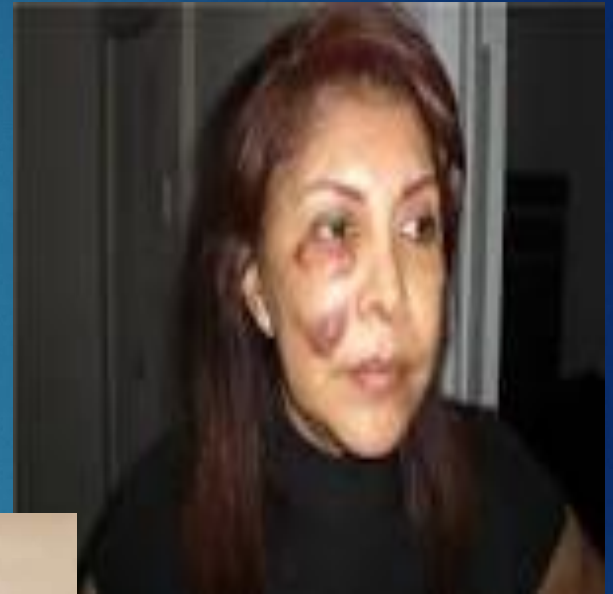


# Consequences

- ▶ Patient Safety
  - ▶ Injections are not all created equal



# Consequences



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# When?

- ▶ This advisory opinion is not a change in current law.
- ▶ The advisory opinion was approved on October 4, 2017.
- ▶ The *Medical Practice Act*
  - ▶ Relevant Provisions of §40-47-30(5) of the 1976 Code were amended in 2006.

# WHERE?

Addiction



Family Practice

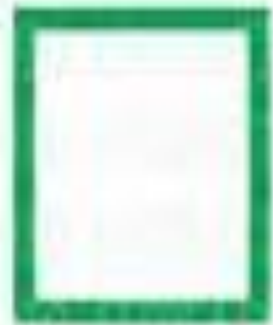


HOME HEALTH CARE





Naughty



Nice



I tried





## Helpful Tips

- ▶ A good offense is the best defense.
- ▶ Know the law.
- ▶ The “Engine”: Title 40, Chapter 1
- ▶ The Practice Act: Title 40
  - ▶ Check LLR’s website for guidance
- ▶ The Code of Regulations
- ▶ The APA: §1-23-10
- ▶ Document! Document! Document!
  - ▶ Training Records, Personnel Files, EMR



**Proactive**

**Reactive**

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THE OFFICIAL



# Naughty

RESULTS SHOWN NOT FINAL  
THERE IS STILL TIME!

**BE GOOD!**

SANTA IS WATCHING!



NORTH POLE APPROVED