

1981 WL 158111 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1981

*1 Mr. E.D. Goodwin
South Carolina Retirement Systems
Post Office Box 11960
Columbia, South Carolina 29211

Dear Mr. Goodwin:

You have asked the opinion of this Office concerning the procedures to be followed to gain permission to handle the affairs of a state retiree who is incompetent to sign required documents.

South Carolina recently passed a durable power of attorney act [§ 32-13-10, Code of Laws of South Carolina (1976), as amended] which authorized the attorney in fact to continue to exercise power of attorney notwithstanding later disability or mental incompetence of the principal. However, the procedure outlined by this statute must be executed prior to the incompetence of the principal. In the situation you pose where the person becomes incompetent to manage his affairs without having executed such a document, it is necessary to follow the procedures for appointment of a committee or guardian outlined in §§ 44-23-710 through 44-23-820 or §§ 21-19-10 through 21-19-200.

If I can be of further assistance, please do not hesitate to call.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

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