

## The State of South Carolina



## Office of the Attorney General

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June 29, 1994

Mark R. Elam, Esquire  
Senior Legal Counsel to the Governor  
Office of the Governor  
Post Office Box 11369  
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of June 15, 1994, you have sought clarification by this Office of a bill pending the Governor's signature in conjunction with a proviso in the 1994-95 Appropriations Act.

Sections 10 and 11 of H.4631, R-597 reauthorize the existence of the State Board of Dentistry and the State Board of Opticianry, respectively. These two boards would be sunsetted out of existence if they are not reauthorized by June 30, 1994, pursuant to S.C. Code Ann. § 1-20-50 (1993 Cum. Supp.). These boards would then have one year to wind up their activities before they were actually nonexistent.<sup>1</sup>

Part II, Section 117 of the 1994-95 Appropriations Act would amend S.C. Code Ann. § 1-20-50 (1993 Cum. Supp.) so as to eliminate the automatic sunseting of boards and commissions on a set schedule. Instead, the State Reorganization Commission would have the authority to conduct agency reviews and determine which agencies shall be terminated. Section 117 is to take effect upon approval by the Governor.

With the foregoing in mind, you have asked whether Section 117 effectively preempts the June 30, 1994, sunset provision. If it does, you asked whether there is a need for reauthorization by the General Assembly. If it does not, you asked whether the

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<sup>1</sup> The remainder of H.4631, R-597 relates to the practice of podiatry and is not relevant to your inquiry.

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General Assembly would be able to reauthorize these boards during the next legislative session during the boards' wind up period.

In construing any statute, the primary objective of both the courts and this Office is to determine and effectuate legislative intent whenever possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Words used in a statute must be given their plain meaning. Bohlen v. Allen, 228 S.C. 135, 89 S.E.2d 99 (1955). Where the language of a statute is clear and unambiguous, the literal meaning must be applied. State v. Goolsby, 278 S.C. 52, 292 S.E.2d 180 (1982).

Applying these and other rules of statutory construction, it is the opinion of this Office that the General Assembly intended to preempt the June 30, 1994 (and succeeding) sunset provisions by the adoption of Section 117. Assuming that the 1994-95 Appropriations Act is signed prior to June 30, 1994, Section 117 would, by its plain language, take effect upon signature by the Governor; new Section 117 would completely replace § 1-20-50 as that statute presently exists, so that the June 30, 1994 deadline specified in § 1-20-50 would be of no legal effect. The effect of gubernatorial approval of Section 117 before June 30, 1994 would be to extend indefinitely the Boards of Dentistry and Opticianry until such time as the State Reorganization Commission might determine, pursuant to § 1-20-50. In such event, there would be no need for reauthorization as would be contemplated by H.4631, R-597.

We trust that the foregoing is responsive to your inquiry. Please advise if clarification or additional assistance should be needed.

With kindest regards, I am


Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions