

August 16, 1985

- (1) A member of the initial Board of Chiropractic Examiners who was appointed to a two-year term and to a four-year term, pursuant to Section 40-9-30, is not eligible to serve an additional, consecutive four-year term.
- (2) A two-year term for members of the initial Board as provided in Section 40-9-30 is a "full" term within the language of Section 40-9-39.

TO: Executive Director
Board of Chiropractic Examiners

FROM: Samuel L. Wilkins
Staff Attorney

By your letter dated July 17, 1985, you have requested an opinion as to the meaning of the provision of § 40-9-39, CODE OF LAWS OF SOUTH CAROLINA (1984 Supp.), which limits members of the South Carolina Board of Chiropractic Examiners to "two full consecutive terms." Specifically, you have inquired whether or not a member of the Board who was appointed to a two-year term and to a consecutive four-year term, pursuant to § 40-9-30, CODE OF LAWS OF SOUTH CAROLINA (1984 Supp.), is eligible to serve an additional, consecutive four-year term. Based on the following analysis, it is my opinion that a Board member who was appointed to serve consecutive two-year and four-year terms is not eligible to serve an additional, consecutive four-year term.

The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent wherever possible. *Bankers Trust of S.C. v. Bruce*, 275 S.C. 35, 267 S.E.2d 424 (1980). An unambiguous statute will be given effect according to the clear meaning of its language. *Citizens and Southern Systems, Inc. v. S.C. Tax Commission*, 280 S.C. 138, 311 S.E.2d 717 (1984); *Helfrich v. Brasington Sand & Gravel Co.*, 268 S.C. 236, 233 S.E.2d 291 (1977). Words used in a statute are to be given their plain and ordinary meanings. *Worthington v. Belcher*, 274 S.C. 366, 264 S.E.2d 148 (1980). Statutes in apparent conflict must be read together and reconciled if possible so as to give meaning to each and to avoid an absurd result. *Powell v. Red Carpet Lounge*, 280 S.C. 142, 311 S.E.2d 719 (1984).

Section 40-9-30 provides, in pertinent part:

There is hereby created the South Carolina Board of Chiropractic Examiners consisting of eight members. . . .

The members of the Board shall serve staggered terms with the members from the first, third and fifth district and one member-at-large who is not from the chiropractic or medical profession serving a two-year term, and all others serving a four-year term. All terms will be for four years after the initial Board is appointed.

Section 40-9-39 provides:

Notwithstanding any other provision of law, no appointive member of the South Carolina Board of Chiropractic Examiners shall be allowed to serve more than two full consecutive terms on the Board; provided, however, that an appointive member who has served for the remainder of a former member's unexpired term shall be allowed to then serve two additional full terms.

The phrase "term of office" connotes a fixed and definite period of time. See 63A Am.Jur.2d *Public Officers and Employees* § 66. Accord *State ex rel. Williamson v. Wannamaker*, 213 S.C. 1, 48 S.E.2d 601 (1948); *State ex rel. Rushford v. Meador*, 267 S.E.2d 169 (W.Va. 1980). In § 40-9-30, the General Assembly distinguishes between the terms of office of the members appointed to the initial Board and members appointed after the initial Board. The term of office for members of the initial Board are specifically designated as two years for the members from the first, third, and fifth districts and for one member-at-large and as four years for all other members. After appointment of the initial Board, all terms of office are prescribed to be four years.

According to the language of § 40-9-39, no appointive member of the Board is permitted to serve more than "two full consecutive terms." The issue thus becomes whether or not the two-year term of office of a member appointed to the initial Board is a "full" term within the proscription of § 40-9-39.

The word "full" is defined as "[a]bundantly provided, sufficient in quantity or degree, complete, entire, and detailed." *Black's Law Dictionary* 604 (rev. 5th ed. 1979). Based on the clear distinction made by the General Assembly in § 40-9-30, the terms of office for the members appointed to the initial Board are complete or full. Similarly, after the initial Board is appointed, the terms of office for all subsequent appointive members are complete or full. Thus a two-year term for members of the initial Board as provided in § 40-9-30 is a "full" term within the language of § 40-9-39.

The title or caption of an act may be properly considered in aid of construction to show the intent of the legislature. *Lindsay v. Southern Farm Bureau Cas. Ins. Co.*, 258 S.C. 272, 188 S.E.2d 374 (1972).

The General Assembly amended § 40-9-30 in 1981 and enacted the provision which is currently codified at § 49-9-39. 1981 S.C. Acts No. 99. Act No. 99 was captioned as follows:

An Act To Reauthorize The Existence Of The South Carolina Board Of Chiropractic Examiners; To Amend Section 40-9-30, As Amended, Code Of Laws Of South Carolina, 1976, Relating To The South Carolina Board Of Chiropractic Examiners, So As To Change The Method Of Appointment Of Members Of The Board And Their

Qualifications; To Provide For Terms And Removal Of Members Of The Board; To Provide For Meetings Of The Board, Its Organization And Rules And Regulations To Provide For Its Government And Judging The Professional And Ethical Competence Of Chiropractors And Their Discipline; To Provide For The Filling Of Vacancies; *To Limit The Number Of Terms A Member May Service*; To Reduce From Thirty To Ten Days The Time Required Before A Board Decision To Revoke, Suspend Or Otherwise Restrict Or Discipline A Licensee Takes Effect; To Provide That The Board May Certify Applicants For Licenses As To Their Ability And Degree Of Their Practice Of Chiropractic; To Provide That The Nonchiropractic Member Of The Board Shall Not Participate In The Examination Of Any License Applicant On Matters Of Technical Or Professional Nature And Require The Use Of The National Board Examination Of The National Board Of Chiropractic Examiners In Lieu Of The State Examination For Persons Graduating From Approved Chiropractic Colleges After July 1, 1982; And To Amend The 1976 Code By Adding Section 40-9-31 So As To Provide A Procedure For The Revocation, Suspension Or Restricting A License Or Disciplining A Licensee And For Appeals And To Change From Thirty Days To Ten Days The Time Required To Petition For Appeal. [Emphasis Added.]

The obvious legislative intent was to place a limitation on the number of terms that a member may serve upon the Board. This legislative intent would be effectuated by limiting the designated appointive members of the initial Board to serve either their two-year term or four-year term and one additional, consecutive four-year term.

For the foregoing reasons, it is my opinion that members of the initial Board from the first, third, and fifth districts and the one member-at-large who were appointed to a two-year term and also to a consecutive four-year term are not eligible to serve an additional, consecutive four-year term. Of course, these members would be eligible to serve another non-consecutive term on the Board.