

1983 WL 181972 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 15, 1983

*1 The Honorable Ryan C. Shealy
South Carolina Senate
Post Office Box 142
Columbia, South Carolina 29202

Dear Senator Shealy:

You have advised me that there were five vacancies on the Community Mental Health Board. The Legislative Delegation established a deadline for nominations to this office, held a vote and only one seat was filled by a person receiving a majority vote. Before another vote can be held on the remaining four seats, a bill will be enacted that will allow members of these boards to succeed themselves. The question has now arisen if the nominations can now be re-opened.

There is no express law governing the specific situation you have posed. Generally, a filing deadline established by statute can be extended in the case of an accident, mistake, or other legal excuse. [Ashton v. Harris, \(Fla.\) 155 So. 100 \(1934\)](#); [Clegg v. Bunnion, \(Utah\), 247 P. 2d 614 \(1952\)](#). Of course, this is not the situation presented here. As establishment of a filing date is within the discretion of the Delegation, see, 1960-61 Op. Atty. Gen. 90, there is a good argument that the Delegation could also extend the deadline. On the other hand, public policy might well dictate the establishment of a reliable final deadline for the purpose of avoiding confusion. See generally, 189 N.Y. 520, 82 N.E. 438 (1907); [72 A.L.R. 285](#).

We regret that there is no more precise governing authority in this area. With best wishes, I remain,
Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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