ALAN WILSON
ATTORNEY GENERAL

May 7, 2015

Chief Joel B. Huggins, Director
Lexington Medical Center
Department of Public Safety
2720 Sunset Boulevard
West Columbia, SC 29169

Dear Chief Huggins:

We are in receipt of your opinion request concerning the interpretation of Section 23-31-235 and Section 23-31-215(M)(9) of the South Carolina Code. In particular you ask: (a) "can an individual be charged under Section 23-31-215(M)(9), if he/she brings a concealable weapon into a hospital" regardless of whether a sign restricting the carrying of such a weapon complies with Section 23-31-235's signage requirements; and (b) are buildings that are on a hospital's property, but not attached to the main building and do not provide clinical services, covered by Section 23-31-215(M)(9)'s concealed weapons prohibition; and if they are not, do such buildings "need the specific signage covered in Section 23-31-235 in order to be enforced criminally?" Our responses follow.

I. Law/Analysis

A. Section 23-31-215(M)(9)'s Concealed Weapons Restriction and Signage

In response to your first question, we believe the answer is "yes." Because Section 23-31-235's signage requirements[1] do not apply to Section 23-31-215(M)(9)'s prohibition on carrying concealed weapons, but instead apply only to those situations governed by Section 23-31-215(M)(10), an individual can be charged with violating Section 23-31-215(M)(9) regardless of whether there is signage consistent with the requirements of Section 23-31-235 on the premises. Indeed, as discussed more fully below, not only do the terms of Section 23-31-215(M) indicate this, but the differing charges and punishments for violations of Section 23-31-215(M)(9) as compared to Section 23-31-215(M)(10) reflect this as well.

[1] As you are well aware, Section 23-31-235, which is cross referenced in Section 23-31-215(M)(10), discusses the size and content that must be on a sign restricting concealed weapons from an establishment. S.C. Code Ann. § 23-31-235 (2007). Similarly, while not mentioned in your question, Section 23-31-220 of the Code, which is also cross-referenced in Section 23-31-215(M)(10) and is entitled "[r]ight to allow or permit concealed weapons upon premises; signs," discusses the sufficiency of notice as it relates to signs prohibiting concealed weapons. S.C. Code Ann. § 23-31-220 (2007).

In order to answer your question we must first look to the intent of the legislature in enacting the statutory provisions at issue. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible."). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will" and "courts are bound to give effect to the expressed intent of the legislature." Media General Communications, Inc. v. South Carolina Dept. of Revenue, 388 S.C. 138, 148, 694 S.E.2d 525, 530 (2010); Wade v. State, 348 S.C. 255, 259, 559 S.E.2d 843, 844 (2002). When determining the effect of words utilized in a statute, a court looks to the "plain meaning" of the words. City of Rock Hill v. Harris, 391 S.C. 149, 154, 705 S.E.2d 53, 55 (2011). In fact, courts will only reject the plain and ordinary meaning of the words used in a statute when doing so would defeat the intent of the legislature. Greenville Baseball v. Bearden, 200 S.C. 363, 368, 20 S.E.2d 813, 815 (1942).

As noted in your letter, Section 23-31-215(M)(9) explains that a concealed weapons permit holder is not authorized to carry a concealable weapon into a "hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed unless expressly authorized by the employer." S.C. Code Ann. § 23-31-215(M)(9) (2014 Supp.). According to subsection (M) "[*e*]*xcept as provided for in item (10)*, a person who wilfully violates a provision of *this subsection* is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year, or both, at the discretion of the court and have his permit revoked for five years." S.C. Code Ann. § 23-31-215(M) (2014 Supp.) (emphasis added).

In contrast, Section 23-31-215(M)(10) of the South Carolina Code states that a concealed weapons permit holder is not authorized to carry a weapon into:

> *[A] place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23-31-220 and 23-31-235.* Except that a property owner or an agent acting on his behalf, by express written consent, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. *A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.*

S.C. Code Ann. § 23-31-215(M)(10) (2014 Supp.) (emphasis added). As detailed in the last sentence of the statute, an individual violating item (10) of subsection (M) may only be charged with violating Section 16-11-620 and thus is merely subject to a fine of "not more than two hundred dollars" or "imprisonment for not more than thirty days." See S.C. Code Ann. § 16-11-620 (2003) ("Any person who, without legal cause or good excuse enters into the . . . place of

business, or on the premises of another person after having been warned not to do so . . . shall . . . be fined not more than two hundred dollars or be imprisoned for not more than thirty days.").

Understanding the differences between these provisions and their respective consequences, we believe the legislature did not intend for Section 23-31-235's signage requirements to apply to violations of Section 23-31-215(M)(9). Indeed, as evidenced by the use of the phrase "except as provided for in item (10)," the plain meaning of Section 23-31-215(M), reflects that violations of items (1)-(9) are independent violations of the law with entirely different consequences than violations of item (10). As a result, item (10) and its' cross-references to the sign requirements in Section 23-31-235 and Section 23-31-220 do not apply to items Section 23-31-215(M)(1)-(9).

This conclusion is confirmed by the text of item (10) of Section 23-31-215(M) which, unlike items (1)-(9), expressly states that an individual charged with violating "this item . . . only may be charged with a violation of Section 16-11-620 and *must not be charged with or penalized for a violation of this subsection.*" S.C. Code Ann. § 23-31-215(M)(10) (emphasis added). Thus, like subsection (M) of Section 23-31-215, the plain meaning of Section 23-31-215(M)(10) demonstrates that the legislature intended individuals who violate Section 23-31-215(M)(10) to be exclusively charged with a violation of Section 16-11-620 which deals with the crime of "[e]ntering premises after warning" rather than a violation of subsection (M) of Section 23-31-215.

B. Interpreting and Applying Section 23-31-215(M)(9) to Buildings on a Hospital Campus that do not Provide Clinical Services and whether Signage is Required for Criminal Enforcement of a Concealed Weapons Prohibition

In your second question your ask whether buildings that are on a hospital's property, but are not attached to the main building and do not provide clinical services, are covered by Section 23-31-215(M)(9)'s concealed weapons prohibition and, if they are not, whether the signage requirement mentioned in Section 23-31-235 must be met for purposes of criminal enforcement. Because we believe the phrase, "or any other facility where medical services or procedures are performed" is a catch-all provision intended to prevent the introduction of firearms into clinical settings, it is the opinion of this Office that Section 23-31-215(M)(9)'s concealed weapons prohibitions would not extend to buildings that do not provide medical services or procedures, regardless of whether such buildings are on hospital property. Therefore, in order to criminally enforce prohibitions on concealed weapons in such buildings, Section 23-31-215(M)(10)'s terms must be met, including the signage requirements contained in Section 23-31-235.

1. Interpreting and Applying Section 23-31-215(M)(9) to Buildings on a Hospital Campus that do not Perform Medical Services or Procedures

As with question one, because the answer to your second question hinges upon issues of statutory interpretation, we must again look to the intent of the legislature. See Hodges v. Rainey, 341 S.C. at 85, 533 S.E.2d at 581 ("The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible."). Indeed, "[w]hat a legislature says in the text of a statute is considered the best evidence of the legislative intent or will" and "courts are bound to give effect to the expressed intent of the legislature." Media General Communications, Inc. v. South Carolina Dept. of Revenue, 388 S.C. at 148, 694 S.E.2d at 530; Wade, 348 S.C. at 259, 559 S.E.2d at 844. When reviewing the effect of words utilized within a statute, a court must give effect to the "plain meaning" of such words unless doing so would defeat legislative intent. City of Rock Hill v. Harris, 391 S.C. at 154, 705 S.E.2d at 55; Greenville Baseball v. Bearden, 200 S.C. at 368, 20 S.E.2d at 815.

With these principles in mind, we now return to Section 23-31-215(M)(9). As mentioned in Section I(A) above, Section 23-31-215(M)(9) explains that absent express employer authorization, a concealed weapons permit issued pursuant to Section 23-31-215 does not allow a permit holder to carry a concealable weapon into a "hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed." S.C. Code Ann. § 23-31-215(M)(9).

Analyzing Section 23-31-215(M)(9), we believe one obvious theme exists. That is, hospitals, medical clinics and doctor's offices are all facilities where medical services or procedures are commonly performed and therefore the phrase "or any other facility where medical services or procedures are performed" was intended to serve as a catch-all provision to illustrate the basis for Section 23-31-215(M)(9)'s prohibition on concealed weapons—in clinical settings where medical services or procedures are performed.

Indeed, this conclusion is supported by the plain meaning of the qualifying phrase "any other facility where medical services or procedures are performed" which, when construed in conjunction with a corollary of the last antecedent rule, confirms that the statute's use of commas before such a qualifier, "is evidence that the qualifier is intended to apply to all antecedents instead of only the immediately preceding one." State Dep't of Labor & Indust. v. Slaugh, 177 Wash. App. 439, 450, 312 P.3d 676, 681 (Wash. Ct. App. 3rd Div. 2013); see also, Baugh v. United Parcel Svc., Inc., 2015 WL 1539593 (Tenn. Ct. App.) ("A qualifying phrase separated from antecedents by a comma is evidence that the qualifier is supposed to apply to all the antecedents instead of only to the immediately preceding one.") (quoting 2A Norman J. Singer & Shambie Singer, Sutherland Statutory Construction, § 47.33, 499-500 (7th ed. 2014)). Accordingly, based on the plain meaning of the qualifying phrase, "any other facility where medical services or procedures are performed" and in light of the interpretive rule discussed above, buildings that are on a hospital's property, but are not attached to the main building and do not provide clinical services, are not subject to Section 23-31-215(M)(9)'s concealed weapons prohibition.

2. Whether Signage is Required for Criminal Enforcement of a Concealed Weapons Prohibition in a Building that is on a Hospital Campus but does not Perform Medical Services or Procedures

In light of our conclusion from Section I(B)(1) above—that Section 23-31-215(M)(9)'s concealed weapon prohibition does not extend to a building on a hospital campus not providing clinical services—we must now address your subsidiary question of whether Section 23-31-235's signage requirement must be met in order to criminally enforce a prohibition on concealed weapons in such a building. We believe that it must.

As mentioned previously in Section I(A), where the prohibitions on concealed weapons detailed in Sections 23-31-215(M)(1)-(9) do not apply, criminal enforcement of a concealed weapons prohibition under Section 23-31-215 may only be accomplished when the provisions of Section 23-31-215(M)(10) are met, and even then, will only result in a transgressor being charged with "[e]ntering premises after warning" as detailed in Section 16-11-620. As discussed above, Section 23-31-215(M)(10) explains that a concealed weapons permit holder is not authorized to carry a weapon into:

> *[A] place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23-31-220 and 23-31-235.* Except that a property owner or an agent acting on his behalf, by express written consent, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. *A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.*

S.C. Code Ann. § 23-31-215(M)(10) (2014 Supp.) (emphasis added).

Understanding this, we believe the terms of Section 23-31-215(M)(10) clearly answer your question. That is, criminal enforcement of a concealed weapons prohibition which is not covered by the specific provisions in Section 23-31-215(M)(1)-(9), may only occur when, in the words of the statute, a "place [is] clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23-31-220 and 23-31-235." S.C. Code Ann. § 23-31-215(M)(10). Accordingly, not only must Section 23-31-235's signage requirements be complied with in order to criminally enforce a prohibition on concealed weapons in a building located on a hospital campus but not performing medical services or procedures, but the sign must also comply with the terms of Section 23-31-220 of the Code.[2]

[2] As detailed in footnote one *supra*, Section 23-31-220 discusses the sufficiency of notice as it relates to signs prohibiting concealed weapons. S.C. Code Ann. § 23-31-220.

II. Conclusion

In conclusion, and as previously recognized, this Office remains supportive of the Second Amendment to the United States Constitution and citizens' right to bear arms. Op. S.C. Att'y Gen., 2014 WL 5073495 (September 30, 2014); Op. S.C. Att'y Gen., 2012 WL 1260182 (April 2, 2012). Nevertheless, because Section 23-31-235's signage requirements do not apply to Section 23-31-215(M)(9)'s prohibition on carrying concealed weapons in a clinical setting where medical services or procedures are performed, an individual can be charged with violating Section 23-31-215(M)(9) regardless of whether there is signage consistent with the requirements of Section 23-31-235 on the premises. That being said, Section 23-31-215(M)(9)'s concealed weapons prohibition does not extend to buildings on a hospital campus where medical services or procedures are not performed. As a result, Section 23-31-235's sign requirements, in addition to those contained within Section 23-31-220 of the Code, must be complied with in order to criminally enforce violations of a concealed weapons prohibition under Section 23-31-215(M)(10).

Sincerely,

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REVIEWED AND APPROVED BY:

Robert D. Cook
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