

1981 WL 157873 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 20, 1981

*1 Gary E. Clary, Esquire
Post Office Box 249
Gaffney, SC 29340

Dear Mr. Clary:

In a letter to this Office you questioned whether an individual who has been appointed to be a constable, which I presume to be an appointment as a State constable, and who serves as an ambulance attendant at the Cherokee County Memorial Hospital may be permitted to do private security work at the hospital as part of his employment. You stated that you were informed that this Office had previously issued an opinion which stated that an individual who is a constable could not provide private security services.

I am enclosing a copy of an opinion dated June 15, 1981, which I believe is the opinion you are referencing. The specific question addressed in the letter was whether an individual who has been appointed to be a State constable could be hired to provide security at a private social function. The opinion stated that such an individual could not provide such a service unless he was licensed by the South Carolina Law Enforcement Division pursuant to [Sections 40-17-10, et seq., Code of Laws of South Carolina](#), 1976.

In reaching the above conclusion, reference was made to the fact that an individual who has been appointed to be a State constable is not generally exempt by virtue of such appointment from the provisions requiring licensing of private security officers. In reaching such conclusion, reference was made to the provisions of Section 40-17-20(b), supra, which defines the term 'private security business' as:

... engaging in the business as or accepting employment as a private patrol, watchman or guard service for consideration on a private contractual basis and not as an employee. Private security business shall not include persons employed exclusively and regularly by only one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship unless the employer is in the private security business. (Emphasis added).

As to your particular situation involving the ambulance attendant, an employee of the hospital, who also is required to do private security work at the hospital, in the opinion of this Office, such an individual would come within the above emphasized exception which exempts from the definition of 'private security business' those individuals exclusively and regularly employed by only one employee to do such work. Therefore, such an individual would not have to be licensed by SLED under such circumstances and could continue to work as outlined in your letter.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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