

1978 WL 35103 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 8, 1978

*1 Purvis W. Collins
Director
South Carolina Retirement System
Post Office Box 11960
Columbia, South Carolina 29211

Dear Mr. Collins:

You have requested an opinion concerning the status of certain part-time doctors and nurses who work for the Department of Health and Environmental Control, and whether or not they are employees of the Department or self-employed for social security and retirement purposes. As you are aware, the answer of this Office has been considerably delayed due to a paucity of facts from which to make the determination. To date, only one factual situation has been outlined in enough detail for this Office to write an opinion, and that opinion will follow in this letter.

This opinion will deal with the following factual situation, which pertains to a nurse who reports to the Spartanburg County Health Department. The nurse in question works every Thursday and every fifth Friday from 7:45 a.m. to 4:00 p.m. She works on the premises of the County Health Department as a nurse. Her duties include assisting doctors and making clinical examinations, dispensing medicines and keeping drugs stocked in the drug room. There is no quota set on the nurse's performance. All materials, including medical equipment as well as stationery, stamps and forms, are supplied by the Health Department. On the whole, this nurse's situation seems to be indistinguishable from that of a regularly employed nurse of the Department; the only difference is that she works five days a month instead of the normal number. Accordingly, it is the opinion of this Office that this nurse and others similarly occupied are employees of the Department rather than independent contractors.

This opinion is intended to cover only the above stated set of facts. This Office does not have the means to discover the employment situation of other persons whose social security status may be in question. I would recommend that the Retirement System or IRS request or conduct a factual investigation of any other positions as to which there is a question of this nature. In other words, with other facts presented, this Office will render an opinion based on those facts, but for the meantime we feel confident only to address the above question for which the facts have been provided.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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