

1978 WL 35235 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 22, 1978

\*1 Mr. John C. Wilkie, Jr.  
Executive Secretary  
Board of Pharmaceutical Examiners  
P. O. Box 11927  
Columbia, South Carolina 29211

Dear Mr. Wilkie:

You have asked whether or not a member of the Board of Pharmaceutical Examiners can continue to serve on that Board if he leaves the active practice of pharmacy to work in the pharmacy computer field.

As I understand it, although it is helpful to the computer system salesmen to have background and training in the field of pharmacy, his duties involve selling computer systems and assisting pharmacists in establishing computer systems within their stores. He would not be involved in the dispensing, compounding or sale of any medicinal drugs, medicinal chemicals, pharmaceutical preparations or biologicals, which would require him to be a registered pharmacist under Section 40-43-140.

The answer to your inquiry turns on the meaning of a portion of §40-43-10 of the Code of Laws of South Carolina, 1976, which establishes the Board of Pharmaceutical Examiners. That section provides, in part, that the Board 'shall consist of seven pharmacists doing business in this State'. As is the case with any statutory provision, the primary rule of construction in interpreting this provision is to ascertain and give effect to the intention of the Legislature. McGlohan v. Harlan, 254 S.C. 207, 174 S.E.2d 753 (1970).

Applying this rule to the section in question, it appears that 'a pharmacist doing business in this State' for purposes of this section should be interpreted as one who 'carries on and conducts the business of such occupation [pharmacy] in this State' under § 40-43-30 and who must obtain a license to practice pharmacy from the Board of Pharmaceutical Examiners. To interpret § 40-43-10 in any other fashion would give little meaning to the 'doing business' portion of that section.

Applying this construction of the statute to the instant situation, it appears that the Board member in question does not meet the statutory requirement for Board membership. Although his duties as a computer salesman appear to involve some knowledge of pharmacy, these duties could be performed by an individual not licensed to practice pharmacy in South Carolina.

Consequently, for purposes of § 40-43-10, it is the opinion of this Office that a member of the Board of Pharmacy who leaves the active practice of pharmacy to enter the pharmacy computer field does not meet the requirements for Board membership under § 40-43-10 of the Code of Laws of South Carolina, 1976.

Please contact me if I may be of further assistance to you.

Yours very truly,

M. Richbourg Roberson

Assistant Attorney General

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