

1974 S.C. Op. Atty. Gen. 70 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3713, 1974 WL 21232

Office of the Attorney General

State of South Carolina

Opinion No. 3713

February 14, 1974

\*1 Mr. William H. Goldman

Director

Anderson-Oconee Speech & Hearing Services

Anderson Memorial Hospital

800 North Fant Street

Anderson, South Carolina 29621

Dear Mr. Goldman:

Thank you for your letter of February 4, 1974, inquiring whether your holding of a position as member of the Commission for Hearing Aid Dealers and Fitters, to which you were appointed on February 10, 1972, and as a member of the State Board of Examiners in Speech Pathology and Audiology, to which you were appointed on September 5, 1973, constitutes dual officeholding.

In my opinion, each of these positions constitutes an office, as that term is used in the Constitution of this State prohibiting dual officeholding. As such, it is my opinion that you cannot, at the same time, occupy both of such offices without violating the dual officeholding provisions of the Constitution.

The Supreme Court has established that when an individual holds an office and subsequently occupies another office, the effect is to cause a vacation of the office first held. The office is considered vacant, not in the physical sense, but in the sense that a vacancy exists which may be filled by appointment of a successor. Even though you may have been violative of the dual officeholding provision, your acts and doings, while occupying both offices, are valid and proper, and you may continue until your successor is appointed. The fact that the two boards may have different functions, and that the two positions are not incompatible, is not the test; the Constitution merely prohibits the holding of the two offices, irrespective of their relation one with the other.

In my opinion, you may continue to serve as a member of the Commission for Hearing Aid Dealers and Fitters until your successor shall have been appointed, and the Governor may make such appointment at any time he wishes.

With best wishes,

Very truly yours,

Daniel R. McLeod

Attorney General

1974 S.C. Op. Atty. Gen. 70 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3713, 1974 WL 21232

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.