

# The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3680  
FACSIMILE: 803-253-6283

February 12, 1991

William R. Moore, Director  
Environmental Certification Board  
2221 Devine Street, Suite 320  
Columbia, South Carolina 29205

Dear Bill:

You have asked if there is a legal reason why the South Carolina Environmental Certification Board ["Board"] should not enter into a contract for a fee with the South Carolina Chapter of the American Water Works Association and the Water Pollution Control Association of South Carolina to administer a voluntary program for certification of their water distribution personnel.

The Board is created by statute and therefore is dependent upon statute for its authority. An administrative board "possesses only those powers that are conferred expressly or by reasonable necessary implication, or are merely incidental to the powers expressly granted." Brooks v. S.C. State Board of Funeral Services, 271 S.C. 457, 247 S.E.2d 820, 822 (1978).

The Board is authorized to "assist and advise agencies and institutions in the conduct of educational programs for licensees." S.C. Code Ann. Section 40-23-70, (Supp. 1990) [Emphasis added.] However, there would appear to be no reasonable implication that the Board may contract for a fee to provide such assistance. Further, the statute specifies educational programs for "licensees." In the situation you mentioned, the recipients of the educational or training services would not be persons already licensed by the Board, thus not "licensees." The law defines a licensee as follows:

"Licensee" means a person who holds a current certificate of registration issued by the board. S.C. Code Ann. Section 40-23-10(10) (Supp. 1990).

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Based on the above, I find no legal authorization for the Board to contract for a fee with any entity to administer any programs for certification (voluntary or otherwise) of their water distribution personnel.

I trust that this answers your question. However, if you wish to discuss this matter further, please let me hear from you.

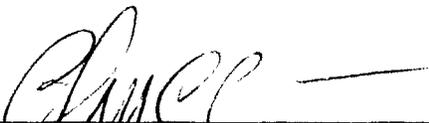
Sincerely,



Alice C. Broadwater  
Assistant Attorney General

ACB/fg

REVIEWED AND APPROVED BY:



Edwin E. Evans  
Chief Deputy Attorney General



Robert D. Cook  
Executive Assistant for Opinions