

Library 2306

# 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 803-758-3970

June 25, 1986

Doris Brantley, Executive Secretary  
South Carolina State Board  
Cosmetology  
1209 Blanding Street  
Columbia, South Carolina 29201

Dear Ms. Brantley:

By your letter of June 16, 1986, you have asked whether a member of the South Carolina State Board of Cosmetology could also serve as an officer of the South Carolina Registered Cosmetologist Association or any other trade association connected with cosmetology.

Article XVII, § 1A of the South Carolina Constitution provides that "... no person shall hold two offices of honor or profit at the same time." For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

The State Board of Cosmetology was established pursuant to Section 40-13-30 of the Code of Laws of South Carolina (1976, as revised). The members are appointed by the Governor for terms of four years and until their successors are appointed and qualified. Qualifications for the various members are specified by the statute. Compensation of members is specified by Section 40-13-40 of the Code and is limited to the usual mileage, subsistence, and per diem authorized by law for state boards, committees, and commissions. Duties of the board are specified by Sections 40-13-80, 40-13-110, 40-13-120, 40-13-160, 40-13-180,

Ms. Brantley  
Page 2  
June 25, 1986

and others. Due to the board's power to grant licenses, promulgate rules and regulations, take disciplinary action against licensees, and so forth, it appears that the board does exercise a portion of the sovereign power of the State. Thus, considering all factors, a member of the board would be an officer for dual office holding purposes.

On the other hand, the South Carolina Registered Cosmetologist Association or other trade association connected with cosmetology would appear to be private professional organizations. Based on the definitions of an officer as discussed above, an individual holding an office in such a private organization would not hold an office for dual office holding purposes. Thus, a board member who would hold an office in a private professional organization would not violate the constitutional prohibitions against dual office holding. See Op. Atty. Gen. dated April 4, 1985, enclosed herewith.

The individual who would serve in both capacities should be made aware of the State Ethics Act, a copy of which is enclosed herewith. If the individual should have questions about the Act, he or she may wish to consult the State Ethics Commission for an interpretation; that agency is located at 1122 Lady Street, Suite 930, Columbia 29201. Until July 4, the telephone number is 758-7408; effective July 4, the number will be 734-1227.

We trust that the foregoing has adequately responded to your inquiry. Please advise if you need clarification or additional information.

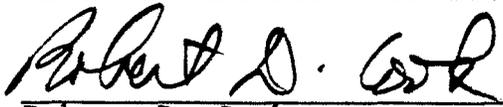
Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

  
\_\_\_\_\_  
Robert D. Cook  
Executive Assistant for Opinions