

9192-9742



ALAN WILSON
ATTORNEY GENERAL

November 6, 2014

Lloyd B. Ward
Barnwell County Coroner
Joey Zorn Law Enforcement Center
599 Fuldner Road, Suite 500
Barnwell, SC 29812

Dear Mr. Ward:

This Office received your request for an opinion regarding whether the South Carolina Coroners Association has authority pursuant to section 17-5-130 of the South Carolina Code to submit to the Governor a list of coroners who have not completed their required annual in-service training hours. You also question whether the South Carolina Coroners Association can submit names of coroners who are not members of the Association.

LAW/ANALYSIS:

Section 17-5-130 of the South Carolina Code addresses the training of coroners. The pertinent sections provide:

(C) Each person serving as coroner in the person's first term is required to complete a basic training session to be determined by the South Carolina Criminal Justice Academy. This basic training session must be completed no later than the end of the calendar year following the person's election as coroner. A person appointed to fill the unexpired term in the office of coroner shall complete a basic training session to be determined by the South Carolina Criminal Justice Academy within one calendar year of the date of appointment. This section must not be construed to require an individual to repeat the basic training session if the person has successfully completed the session prior to the person's election or appointment as coroner. A coroner who is unable to attend this training session when offered because of an emergency or extenuating circumstances, within one year from the date the disability or cause terminates, shall complete the standard basic training session required of coroners. A coroner who does not fulfill the obligations of this subsection is subject to suspension by the Governor until the coroner completes the training session.¹

¹ The language of section 17-5-130(C) is as amended by 2014 South Carolina Laws Act 225.

(D) A person holding the office of coroner or deputy coroner who was elected, appointed, or employed prior to January 1, 1994, and who has served continuously since that time shall attend a minimum of sixteen hours training annually as may be selected by the South Carolina Law Enforcement Training Council on or before December 31, 1995. Each year, all coroners and deputy coroners shall complete a minimum of sixteen hours training annually as selected by the council. Certification or records of attendance or training must be maintained as directed by the council.

(E)(1) The basis for the minimum annual requirement of in-service training is the calendar year. A coroner who satisfactorily completes the basic training session in accordance with the provisions of subsection (C) is excused from the minimum annual training requirements of subsection (D) for the calendar year in which the basic training session is completed.

(2) The Board of Directors of the South Carolina Coroners Association, in its discretion, may grant a waiver of the requirements of the annual in-service training upon presentation of evidence by a coroner that he was unable to complete the training due to an emergency or extenuating circumstances.

(3) A coroner who fails to complete the minimum annual in-service training required by this section may be suspended from office, without pay, by the Governor for ninety days. The Governor may continue to suspend a coroner until the coroner completes the annual minimum in-service training required in this section. The Governor shall appoint, at the time of the coroner's suspension, a qualified person to perform as acting coroner during the suspension.

(F) A coroner in office on the effective date of this section is exempt from the provisions of this section except for the provisions of subsection (D).

(G) The Director of the South Carolina Criminal Justice Academy shall appoint a Coroners Training Advisory Committee to assist in the determination of training requirements for coroners and deputy coroners and to determine those forensic science degree and certification programs that qualify as "recognized" pursuant to the requirements of this section. The committee must consist of no fewer than five coroners and at least one physician trained in forensic pathology as recommended by the South Carolina Coroners Association. The members of the committee shall serve without compensation.

(H) Expenses of all training authorized or required by this section must be paid by the county the coroner or deputy coroner serves, and the South Carolina Law Enforcement Training Council is authorized to set and collect fees for this training.

S.C. Code Ann. § 17-5-130 (1976 Code, as amended).

The statute is unclear in that it does not express who keeps records of a coroner's training hours or who reports to the Governor when a coroner does not complete his hours. Additionally, there is no additional South Carolina legislative or judicial authority which could provide a conclusive answer to your query. Therefore, we must review other provisions of law.

In a prior opinion, we discussed some principles of statutory construction and they are as follows:

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000). “[Courts] will give words their plain and ordinary meaning, and will not resort to a subtle or forced construction that would limit or expand the statute's operation.” Harris v. Anderson County Sheriffs Office, 381 S.C. 357, 362, 673 S.E.2d 423, 425 (2009). “If a statute's language is plain, unambiguous, and conveys a clear meaning, then the rules of statutory interpretation are not needed and a court has no right to impose another meaning.” Strickland v. Strickland, 375 S.C. 76, 85, 650 S.E.2d 465, 472 (2007). “[S]tatutes must be read as a whole, and sections which are part of the same general statutory scheme must be construed together and each one given effect, if reasonable.” State v. Thomas, 372 S.C. 466, 468, 642 S.E.2d 724, 725 (2007). “[C]ourts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature or that would defeat plain legislative intention.” State v. Johnson, 396 S.C. 182, 189, 720 S.E.2d 516, 520 (Ct. App. 2011). Where the plain language of a statute is ambiguous or “lends itself to two equally logical interpretations,” a court may look beyond the borders of the act itself to determine the Legislature's intent. Kennedy v. S.C. Ret. Sys., 345 S.C. 339, 348, 549 S.E.2d 243, 247 (2001).

Op. S.C. Atty. Gen., September 18, 2013, (2013 WL 5494616).

Under section 17-5-130, the South Carolina Law Enforcement Training Council and the South Carolina Criminal Justice Academy have responsibility for coroners' training. The South Carolina Law Enforcement Training Council selects the training, sets and collects the fees for the training, and directs how records of attendance of training must be maintained. The South Carolina Criminal Justice Academy determines the basic training session of coroners and appoints the Coroners Training Advisory Committee to assist in the determination of coroners training requirements and what certification programs are recognized.

We have clarified the relationship between the South Carolina Law Enforcement Training Council and the South Carolina Criminal Justice Academy. In prior opinions, we have stated that pursuant to S.C. Code Ann. §§ 23-23-10 *et seq.*, “minimum standards for training of law enforcement officers in South Carolina are determined by the South Carolina Law Enforcement Training Council and is administered by the Criminal Justice Academy.” See Op. S.C. Atty. Gen., February 26, 2013, (2013 WL 861299); Op. S.C. Atty. Gen., January 6, 2012, (2012 WL 440545).

In an opinion we issued prior to coroners being required by law to receive annual in-service training, we determined that the Criminal Justice Academy could provide training to coroners but could not certify that the coroners were qualified as a result of completing training hours. Our reasoning was that a coroner was an elected official and not a law enforcement officer as defined by section 23-23-10.² And only law enforcement officers were eligible for certification by the Academy pursuant to sections 23-23-10 *et seq.* Op. S.C. Atty. Gen., January 10, 1991 (1991 WL 634936).

In our January 10, 1991 opinion, we also considered section 23-23-60(A)³ which provides:

At the request of any public law enforcement agency of this State the council is hereby authorized to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this chapter. . . .

S.C. Code Ann. § 23-23-60(A) (1976 Code, as amended). We concluded that although the statute authorized the South Carolina Law Enforcement Training Council to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this article, there were no specific statutory references to training or certification of coroners. Therefore, only law enforcement officers could be certified by the Criminal Justice Academy. Op. S.C. Atty. Gen., January 10, 1991 (1991 WL 634936). Although section 17-5-130 now provides for training of coroners, there is still no statutory requirement that coroners receive any type of certification for having completed their training hours.

² In our opinion, we referred to “law enforcement officer” as defined by section 23-23-10(D). The statute has been amended (although the language has not changed) and section 23-23-10(E)(1) now provides:

(E) As contained in this chapter:

(1) “Law enforcement officer” means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

³ At the time of our prior opinion, section 23-23-60(A) was section 23-23-50(A). The only difference is that the current section 23-23-60(A) has substituted “under the provisions of this chapter” for “under the provisions of this article.”

Based upon our January 10, 1991 opinion, it appears that neither the South Carolina Law Enforcement Training Council nor the South Carolina Criminal Justice Academy are responsible for certifying that coroners have complied with their annual in-service training hours. This is supported by the language of section 17-5-130(D) which states that “[c]ertification or records of attendance or training must be maintained as directed by council.” S.C. Code Ann. § 17-5-130(D) (1976 Code, as amended) (emphasis added). Section 17-5-130(D) indicates that the Law Enforcement Training Council does not issue certificates of completion but merely directs another entity on how to do so. Accordingly, it is doubtful that either the South Carolina Law Enforcement Training Council or the South Carolina Criminal Justice Academy would be responsible for reporting coroners who do not complete their hours to the Governor.

The South Carolina Coroners Association can pursuant to section 17-5-130 waive the annual in-service training requirement for a coroner if the coroner can show he could not complete the hours due to emergency or extenuating circumstances. It can also recommend the members of the Coroners Training Advisory Committee, who assist in determining the training requirements for coroners and deputy coroners and determine the forensic science degree and certification programs that qualify as “recognized.” The question is whether the South Carolina Coroners Association has the authority to keep records of coroners’ training hours or inform the Governor when coroners do not complete their hours.

According to the South Carolina Secretary of State, the South Carolina Coroners’ Association, Inc. (“Coroners Association”) is a nonprofit corporation.

(See <http://www.sos.sc.gov/index.asp?n=18&p=4&s=18&corporateid=71241>).

Since the Legislature did not provide the Coroners Association with express authority to certify coroners’ completion of their training hours or report coroners who have not completed the hours to the Governor, we will examine the law on nonprofit corporations.

“A corporation may exercise only those powers which are granted to it by law, by its charter or articles of incorporation, and any by-laws made pursuant thereto. . .” See S.C. Reporters’ Comments, S.C. Code Ann. § 33-31-302 (1976 Code, as amended); Op. S.C. Atty. Gen., February 3, 2014 (2014 WL 1398587). We have not reviewed the Coroners Association’s articles of incorporation. We have examined a 2010 version of the Coroners Association’s by-laws and it does not contain any information which would assist us with your query. Accordingly, our focus will be on the statutes. Section 33-31-302(16) grants nonprofit corporations the power to “establish conditions for admission of members, admit members, and issue memberships.” S.C. Code Ann. § 33-31-302(16) (1976 Code, as amended). Section 33-31-621(a) provides that “[n]o member of a public benefit or mutual benefit corporation⁴ may be expelled or suspended, and no membership or memberships in such corporations may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith.” S.C. Code Ann. § 33-31-621(a) (1976 Code, as amended).

Pursuant to the statutes, the Coroners Association may have the ability to require its members, as a condition of membership, to turn in their hours to the Coroners Association with the agreement that the Coroners Association will report to the Governor if they are not in compliance. The Coroners Association may be able to terminate, expel, or suspend its members who do not complete their training

⁴ “In addition to adopting bylaws, every nonprofit corporation in South Carolina must elect to be a public benefit corporation, a mutual benefit corporation, or a religious corporation.” Op. S.C. Atty. Gen., February 3, 2014 (2014 WL 1398587) (citing S.C. Code Ann. § 33-31-202(a)(2) (1976 Code, as amended)).

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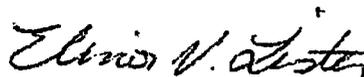
hours as long as the suspension or termination takes place by means of a fair and reasonable procedure. However, the statutes do not appear to give the Coroners Association similar authority over non-members.

Furthermore, the Coroners Association and its members have a contractual relationship. "In addition to the statute under which a corporation is formed, a corporation's articles of incorporation or the corporate charter and its properly adopted bylaws constitute a binding contract between the corporation and its shareholders or members." 18 Am.Jur.2d Corporations § 21. The coroners who have not joined the Coroners Association are not in a contractual relationship and thus are not obliged to report their training hours to the Association.

CONCLUSION:

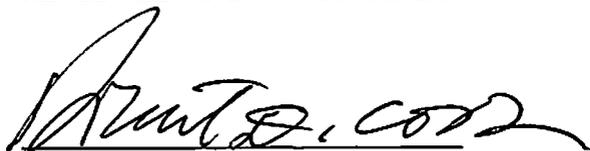
In summary, the ultimate answer to your query is unclear. The law does not provide guidance as to the entity who is responsible for certifying that coroners have complied with their annual training requirements and for reporting coroners who are not eligible for the waiver of their training to the Governor. The Legislature may wish to clarify who has this authority.

Sincerely,



Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General