

1980 WL 120626 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 25, 1980

***1 Re: Discharge of Committee**

The Honorable Joe A. Sanders
Associate Probate Judge
Probate Court Richland County
Columbia, South Carolina 29201

Dear Judge Sanders:

You have asked this Office the procedure to discharge a committee and appoint a replacement committee when a mentally retarded ward moves from the county where the original appointment of the committee was made.

The committee statutes [§§ 44-23-710 et seq.](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, do not provide a procedure for the discharge and successive appointment of a committee when a ward moves from the county. The statutes specifically pertaining to committees provide for discharge in only two specified instances. See, § 44-23-780, failure to make required accountings; § 44-23-810 upon restoration of the ward's competency.

There being no specific committee statute on point, the general guardianship statutes must be consulted for guidance, as a committee is a restricted form of guardianship. 39 Am.Jur.2d Guardian and Ward, §§ 18 and 19.

Sections 21-19-10 et seq. CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, generally control the appointment and discharge of guardians. Absent a more specific statute these general sections will prevail. Section 21-19-100 provides for the change of a guardianship when a ward moves from the county of appointment. This section, though written in terms of the disability of minority, applies equally to a guardianship of a mentally retarded person. See, § 21-19-250, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended. Section 21-19-100 provides that designated persons may petition the Probate Court in the County of the ward's new residence for the appointment of a successor committee [or guardian].

When the successor committee has been appointed and qualifies, the Probate Court of original appointment exercises jurisdiction to discharge the original committee. The Court of original appointment must require a final accounting and delivery of the ward's estate, prior to discharge. Section 21-19-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended. In addition, [§ 14-23-350 of the Code](#) requires publication of the notice of discharge in the newspaper.

Please call if this Office can be of further assistance.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

1980 WL 120626 (S.C.A.G.)