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# The State of South Carolina



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August 4, 1986

Representative Marion P. Carnell  
Second Vice Chairman  
Ways and Means Committee  
House of Representatives  
P. O. Box 11867  
Columbia, SC 29211

Dear Representative Carnell:

In your letter of May 5, 1986, to the Attorney General, you have inquired as to whether certain mental retardation facilities would qualify for bond funds under the provisions of §44-7-1410, et seq., South Carolina Code of Laws, 1976, as amended, referred to as the "Hospital Revenue Bond Act." You have made specific reference in your letter to Emerald Center in Greenwood, South Carolina. It is my understanding that Emerald Center is the name given to a group of buildings which house administrative offices, as well as the adult and child development centers, of the Piedmont Multi-County Board which operates four community residences: J. Felton Burton Community Residence, Carnell Community Residence, Greenwood Community Residence and Wareshoals Community Residence. Further, it is my understanding that all of these Community Residences are presently, or will be in the near future, licensed by the Department of Health and Environmental Control as "intermediate care facilities - mental retardation - 15 beds or less." (ICF-MR-15) 1/

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1/ An "ICF-MR-15" is defined as a residential facility licensed under State Law, planned, organized, operated and maintained to provide services with related social care, to two or more, but less than 16 individuals, over a period exceeding 24 hours. This facility shall provide services above room and board, but less than those in skilled nursing facilities and hospitals. These facilities house individuals who require care in a sheltered environment but do not have an illness, disease, injury, or other condition for which 24 hour nursing services are required. Reg. 61-13 DHEC Minimum Standards for Licensing, Revised June 13, 1980.

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The purpose of the Hospital Revenue Bond Act, as declared in §44-7-1420, is "to promote the public health and welfare by providing means for the financing, refinancing, acquiring, enlarging, improving, constructing, equipping, and providing of hospital facilities to serve the people of the State and to make accessible to them modern and efficient hospital facilities at the lowest possible expense to those utilizing such hospital facilities." "Hospital facilities" are defined in §44-7-1430(d) as follows:

(d) "Hospital facilities" means any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same or contiguous site or sites (and including existing facilities), machinery, equipment, furnishings, or other real or personal property suitable for health care or medical care; and includes, without limitation, general hospitals, chronic diseases, maternity, mental, tuberculosis, and other specialized hospitals; facilities for emergency care, intensive care, and self-care; clinics and outpatient facilities; clinical, pathological, and other laboratories, hospital research facilities; extended care facilities; skilled nursing home facilities; nursing home facilities; retirement home facilities; laundries, residences and training facilities for nurses, interns, physicians, and other staff members, food preparation and food service facilities; administration buildings, central service, and other administrative facilities; communication, computer, and other electronic facilities; fire-fighting facilities; pharmaceutical and recreational facilities; storage space, x-ray, laser, radiotherapy, and other apparatus and equipment; dispensaries; utilities; vehicular parking lots and garages, office facilities for hospital staff members and physicians; and including, without limiting any of the foregoing, any other health and hospital facilities customarily under the jurisdiction of or provided by hospitals, or any combination of the foregoing, with all necessary, convenient, or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping, and physical amenities. (Emphasis added).

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Mental retardation facilities are not expressly included in this definition, but may fall within one of the other general categories mentioned. It may be argued that mental retardation facilities fall within the "other specialized hospitals" category. Certainly, "hospital," as defined in the "State Hospital Construction and Franchising Act," found at §44-7-110, et seq., South Carolina Code of Laws, 1976, as amended, includes "facilities for persons with developmental disabilities (formerly facilities for the mentally retarded.)" There is a strong argument, however, that without such a specific definition, which is not found in the Hospital Revenue Bond Act, the ordinary meaning of hospital as "a place appropriated to the reception of persons sick or infirmed in body or mind to which people may resort for medical or surgical treatment," should not be extended to mental retardation facilities. 40 Am.Jur.2d, Hospital and Asylum, §1. Mental retardation is generally accepted as a condition or status, rather than a sickness or disease, and is dealt with by an "habilitation process" which focuses upon education, training and care required to help each retarded individual reach their maximum potential. For purposes of this opinion, however, we find it unnecessary to take a position on whether a mental retardation facility is a hospital.

Section 44-7-1430, in defining "hospital facilities," refers to "extended care facilities." This term is not defined in the statutes and has no particular legal meaning attached to it. It is a technical term, however, which is used interchangeably with the phrase "long term care" and encompasses, for purposes of licensing and regulation by the Department of Health and Environmental Control, intermediate care facilities, and skilled nursing care facilities. Mental retardation facilities which are licensed as ICF-MR-15, are considered "extended care facilities." 2/

In construing a statute, it is to be assumed that words and phrases are used in their technical meaning, if they have acquired one. Poole v. Saxon Mills, 6 S.E.2d 761, 192 S.C. 339. Under this general principle of statutory construction, "extended care facili-

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2/ Telephone conversation of July 25, 1986, with Florence A. White, Director of the Office of Certification; Division of Health Licensing and Certification, Bureau of Health Facilities Construction, Licensing and Certification, South Carolina Department of Health and Environmental Control.

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ties," as used in §44-7-1430 of the Hospital Revenue Bond Act, would include mental retardation facilities licensed as ICF-MR-15. 3/

This interpretation gives meaning to an otherwise vague and meaningless term. Furthermore, it appears to enhance the purpose of the Act by making clear that people of the State, including those mentally handicapped, are afforded a method for making accessible to them modern and efficient facilities at the lowest possible expense.

Therefore, it is our conclusion that a mental retardation facility licensed as an ICF-MR-15 by the Department of Health and Environmental Control, comes within the definition of "hospital facility" as used in §44-7-1430 of the Hospital Revenue Bond Act.

Sincerely,



B. J. Willoughby  
Assistant Attorney General

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REVIEWED AND APPROVED:



ROBERT D. COOK

Executive Assistant for Opinions

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3/ The facilities which are the subject of this inquiry have less than 16 beds and, therefore, are licensed as ICF-MR-15. However, similar facilities which have more than 16 beds are likewise considered "extended care facilities" and would, therefore, be included under the same definition.