

1976 S.C. Op. Atty. Gen. 417 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4547, 1976 WL 23164

Office of the Attorney General

State of South Carolina

Opinion No. 4547

December 16, 1976

*1 William S. Hall, M.D.

State Commissioner of Mental Health
South Carolina Department of Mental Health
Post Office Box 485
Columbia, SC 29202

Dear Dr. Hall:

You have requested an opinion as to the authority of the Department of Mental Health to regulate and require a license of a facility for alcoholics which provides (or claims to provide) no treatment of a medical or pharmaceutical nature, but instead claims to offer only the Word of God as its sole method of treatment.

The Department bases its authority on Sections 32–1034, *et seq.*, 1962 Code of Laws. Section 32–1034 provides as follows: No hospital, sanitarium, home, or other institution shall be operated or maintained, in part or in full, for the care and treatment of the mentally ill or mentally defective, epileptic, drug-addicted or alcoholic unless a license is first obtained from the South Carolina Mental Health Commission as provided in this article.

The Department, in its Regulation 87–25(B), has further defined the terms in Section 32–1034 as follows:

Facilities Offering Care and Treatment Defined: Any facility which offers or represents to the public that it offers a beneficial or protected environment specifically for the mentally ill or dring addicted or alcoholic or provides or purport to provide any specific procedure or process for the cure or improvement of that disease or condition must be licensed by the Department.

It appears that the purpose of Sections 32–1034, *et seq.* goes beyond the regulation of purely medical cure, and treatment; the aim is to insure that whenever a number of persons with some sort of mental illness are assembled for purposes of cure, the facility housing them meets certain minimum standards. Regardless of the type of cure to be effected, patients still need to be protected against unsafe and unsanitary facilities. This purpose is evidenced by Section 32–1034.8, which provides in part:

[The Department] may prescribe, require and enforce minimum standards regulating safety, sanitation, and medical, nursing and therapeutic care and other standards covering all facilities and equipment for such institutions, and may promulgate such other rules and regulations as it deems necessary.

It is therefore the opinion of this Office that the facility described above is subject to being licensed. Needless to say, some aspects of the licensing procedure, such as the medication control requirements, should not be applicable.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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