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The State of South Carolina



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October 12, 1992

William V. Bradley, Interim Executive Director
South Carolina State Board of Examiners for
Nursing Home Administrators and Community
Residential Care Facility Administrators
2221 Devine Street, Suite 414
Columbia, South Carolina 29205-2414

Dear Bill:

You have asked for an Opinion regarding the term "accredited college or university" as used in the statute regarding the licensing of nursing home administrators. S.C. Code Ann. §40-35-30 (Supp. 1991). You state that in the past, your Board has considered that the term refers to those colleges and universities whose accreditation is recognized by the Council on Postsecondary Accreditation (COPA) and the U.S. Department of Education (US Ed).

A letter from Fred R. Sheheen dated May 27, 1992, addressed to you and enclosed with your request, states that the subject of your inquiry, Century University, accredited by the Accrediting Commission International for Schools, Colleges, and Theological Seminaries (ACISCTS), is registered with (not licensed by) the Commission on Higher Education in New Mexico. The letter further states that ACISCTS is not a recognized accrediting agency with the New Mexico Commission on Higher Education, COPA or U.S. Ed. The letter raises the question of whether or not the accrediting commission must be "recognized" by COPA or U.S. Ed. to be acceptable for purposes of your Agency's licensing statute.

The statute regarding licensing of nursing home administrators states:

A nursing home administrator must:
. . . have the following education and experience:

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(a) a baccalaureate degree in nursing home administration or related health care administration from an accredited college or university. .

. . ;
(b) a baccalaureate degree other than in health care administration from an accredited college or university [Emphasis added].

S.C. Code Ann. §40-35-30(B)(4)(a)(b), (Supp. 1991). The statute fails to define accredited or to state by what agency the college or university should be accredited.

In South Carolina, the State Commission on Higher Education has "the sole authority for licensing non-public educational institutions established in this State and for those established elsewhere to operate in or confer degrees in this State." S.C. Code Ann. §59-46-20 (1990).

Further instruction may be taken from the following statute which refers to institutions established in this state.

. . . Any institution established in this State which is accredited by any association or organization recognized by the Council on Post-secondary Accreditation for conducting institutional or specialized accreditation . . . shall be considered to have given satisfactory evidence that the standards have been met. . . . [Emphasis added].

S.C. Code Ann. §59-46-30 (1990).

Since our legislature has decreed that the Commission which licenses colleges and universities in this state shall accept for licensing consideration only those institutions accredited by agencies "recognized" by COPA, it would seem unlikely that it intended to allow persons with degrees from institutions whose accreditation is conferred by agencies not recognized by COPA to be licensed to engage in occupations and professions in this state.

The U.S. Department of Education bestows recognition on accrediting agencies through the Secretary. The criteria for Secretarial recognition are found at 34 CFR Ch. VI §602.10 (7-1-91 Edition) and cover such areas as experience, scope of activity, clarity of purpose, scope and operational information, national recognition, resources, focus on educational effectiveness, regard

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for adequate and accurate public disclosure and regard for decisions of States and other accrediting agencies.

Under the criteria of National recognition:

The Secretary determines whether an accrediting agency demonstrates that its policies, evaluation methods and decisions are accepted throughout the United States by, as appropriate -

- (a) Educators and educational institutions;
 - (b) Licensing bodies; practitioners, and employers in the professional or vocational fields for which the educational institutions or program within the agency's jurisdiction prepare their students; and
 - (c) Recognized agencies.
- (Authority: 20 U.S.C. 1058 et al.)
[Emphasis added.]

34 CFR Ch. VI §602.14 (7-1-91 Edition).

The rule of statutory construction favoring an agency's interpretation of the statute it enforces has long been applied in South Carolina:

"The construction of a statute by the agency charged with executing it is entitled to the most respectful consideration and should not be overruled without cogent reasons."

Faile v. South Carolina Employment Security Commission, 267 S.C. 536, 540, 230 S.E.2d 219, 221 (1976).

Thus, in light of the statutory laws relating to standards observed by both the State Commission on Higher Education and the U.S. Department of Education regarding accreditation of institutions of higher learning, together with South Carolina case law regarding agencies' interpretations of statutes they enforce, it appears that your agency's interpretation of terms within its licensing law is reasonable and would thus be entitled to respect by the courts.

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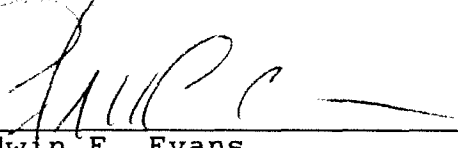
I trust that this discussion is helpful.

Sincerely,

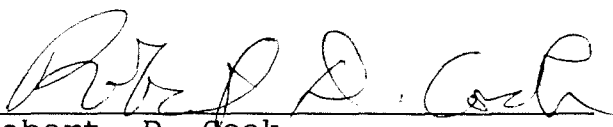
Alia

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