

1980 WL 121175 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 17, 1980

*1 Charles D. Barnett, Ph.D.
Commissioner
Department of Mental Retardation
2712 Middleburg Drive
P.O. Box 4706
Columbia, South Carolina 29240

Dear Dr. Barnett:

You have requested an opinion of this Office as to whether the term 'home' within the context of [§ 6-7-830, Code of Laws, South Carolina, 1976](#), as amended, is to be limited to a facility operated by the State Department of Mental Health or State Department of Mental Retardation or is to include any group home for the mentally handicapped that is licensed for that location by the State Department of Mental Health, § 44-17-10, et seq., or the South Carolina Mental Retardation Department, § 44-21-510, et seq.

[Section 6-7-830](#) as originally enacted in 1976,¹ required State agencies, departments and subdivisions, inter alia, to comply with municipal zoning ordinances. A 1978 amendment to [§ 6-7-830](#)² exempted from the operation of that section certain homes for the mentally handicapped. [Section 6-7-830](#) states in part that:

The provisions of this section shall not apply to a home serving not more than nine mentally handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department . . . (Emphasis added).

From the above cited section, certain homes that are licensed by a state agency or department are exempt from the coverage of the statutes. Since neither the South Carolina Department of Mental Health nor the South Carolina Department of Mental Retardation licenses its own institutions, facilities or programs,³ it is clear that it was the intention of the legislature to include private or public group homes that are not state operated within the exemption.⁴

Therefore, it is the opinion of this Office that the term 'home', within the context of [§ 6-7-830](#), encompasses certain group homes that are licensed, but not operated, by a state agency or department.

Very truly yours,

C. Havird Jones, Jr.
Assistant Attorney General

Footnotes

¹ See 1976 Act No. 653 §§ 1, 2.

² See 1978 Act No. 449 § 1.

- 3 Specifically see, § 44-17-10, et seq., and Rule 87-11, promulgated thereunder at Volume 26, Code of Laws of South Carolina, 1976, as amended. Also see, § 44-21-510, and Rule 88-110, promulgated thereunder at Volume 26, Code of Laws of South Carolina, 1976, as amended.
- 4 It is presumed that the Legislature was familiar with prior legislation dealing with same subject when it passed the law involved. See, Bunch v. Cobb, 273 S.C. 445, 257 S.E.2d 225 (1979).

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