1974 WL 27835 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
June 27, 1974

***1** Ms. Jeannie M. Rubin, Esq.
Planned Parenthood of Central South Carolina
2014 Wahington Street
Columbia, South Carolina 29204

Dear Ms. Rubin:
You have asked whether Act 1387, Acts of 1972, providing for the licensing and regulation of medical laboratorics applies to Planned Parenthood of Central South Carolina. The purpose of this Act is . . . to develop, establish and enforce minimum standards for the licensure of medical laboratories and thereby to properly regulate the operation of such.'

A 'medical laboratory' is defined in Section 2(b) of Act No. 1387 as a place in which the enumerated medical operations and procedures '. . . are performed to obtain information in diagnosing, preventing and treating disease or in which the results of any examination, determination or test are used as bases for health advice.' You have informed this office that your institution provides 'breast and pelvic examinations, pap smears, urinalysis, blood tests and pregnancy tests.' These activities, by definition, fall within those described in Act No. 1387, and therefore Planned Parenthood of Central South Carolina is a 'medical laboratory' as defined in the Act.

You have inquired further as to whether your institution can be classified as a non-medical laboratory insofar as its 'pregnancy test' operations are concerned. The terms of the statute do not embrace or contemplate such a classification. In performing the examinations and tests you have made mention of, your facility is, by Definition, a 'medical laboratory' and this designation would endure even though you offer additional services. Also it appears likely that the results of pregnancy tests do in fact have some relation to 'health advice'.

You have also asked whether Planned Parenthood of Central South Carolina qualifies for the § 5(b) exemption under Act No. 1387. Section 5(b) excludes medical laboratories operated by not more than two duly licensed medical doctors exclusively in connection with serving their own patients. In your letter you mentioned a Medical Director and his assistant. I am unaware whether or not this assistant is a physician. Regardless of whether the assistant is a physician, though, as long as the institution does not employ more than one other physician besides the Director to 'operate' this laboratory, and as long as the operation of the laboratory is '. . . exclusively in connection with the diagnosis and treatment of their own patients . . .', Planned Parenthood would qualify for the § 5(b) exemption. The use of resident M.D.'s in training at local hospitals for the majority of examinations does not seem to run contrary to the purpose of the Act so long as no third M.D. becomes involved in the 'operation' of the clinic.

We regret that we cannot respond conclusively to the second question raised in your letter, but we do not understand why persons whose pregnancy tests prove positive are not considered patients of the 'operating' physicians up to and including the time of the termination of the laboratory's services to them following the test.

***2** We hope the above response will prove helpful to you. If we can be of any further assistance to you, please call on us.
Sincerely,

Dudley Saleeby, Jr.

Assistant Attorney General

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