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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Andrew Bennett
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Mental Health Facilities – Taxation
– Exemptions – Mental Health
Department – Ad Valorem Taxes

A regional mental health facility that is licensed or certified by the Alabama Department of Mental Health is exempt from payment of ad valorem taxes pursuant to section 40-9-23 of the Code of Alabama, regardless of the number of patients treated by such facility. The determination regarding whether a facility is a regional mental health facility pursuant to sections 22-50-1 through 22-50-24 of the Code of Alabama is a decision best suited for the Department of Mental Health.

Dear Mr. Bennett:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

What qualifies a facility as a regional facility? Would a facility that cares for one individual through programs and its facility qualify as a regional mental health facility?

FACTS AND ANALYSIS

In your letter of request, you informed this Office of the following:

A corporation has been established and the State of Alabama Department of Mental Health has granted a certification of Community Residential Facility (ID), One (1) Resident to a mental health facility that provides care to one patient. The facility has also been granted Administrative Services (ID) and Program Administrative Services certificates that are both programmatic for only two years. The Department of Mental Health provides ongoing funding to the corporation to serve in the community under the auspices of a micro-board.

Section 40-9-23 of the Code of Alabama exempts only regional mental health facilities from paying ad valorem taxes. This section states that “[a]ll corporations organized for the purpose of establishing regional mental health programs and facilities which are certified or licensed by the State Board of Health under the provisions of sections 22-50-1 through 22-50-24 shall be exempt from all taxation.” ALA. CODE § 40-9-23 (2003).

A natural reading of section 40-9-23 of the Code provides two instances where a regional mental health facility would be exempt from taxation: (1) where the corporation is organized for the purpose of establishing regional mental health programs that are certified or licensed pursuant to sections 22-50-1 through 22-50-24 of the Code, and (2) where the corporation is organized for the purpose of establishing regional mental health facilities that are certified or licensed pursuant to sections 22-50-1 through 22-50-24.

The Department of Mental Health (“Department”) is authorized to license facilities upon certification from the Department that such facility complies with the rules and regulations of the Department. ALA. CODE § 22-50-11 (13) (2006). Further, section 22-50-17 of the Code, with limited exception, requires that all mental health facilities be certified or licensed by the Department of Mental Health. ALA. CODE § 22-50-17 (Supp. 2011).

This Office is unaware of any statutory provision that quantifies the number of patients a facility is required to assist for that facility to be considered a regional mental health facility. Regardless of the number of clients within, or assigned to, a particular facility, section 40-9-23 of the

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Code merely requires that a facility is certified or licensed pursuant to sections 22-50-1 through 22-50-24. Accordingly, it is the opinion of this Office that, as long as a facility is certified or licensed as a regional mental health facility by the Department of Mental Health pursuant to sections 22-50-1 through 22-50-24, such facility is exempt from paying ad valorem tax.

CONCLUSION

A regional mental health facility that is licensed or certified by the Alabama Department of Mental Health is exempt from payment of ad valorem taxes pursuant to section 40-9-23, regardless of the number of patients treated by such facility. The determination regarding whether a facility is a regional mental health facility pursuant to sections 22-50-1 through 22-50-24 is a decision best suited for the Department of Mental Health.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE

Attorney General

By:



BRENDA F. SMITH

Chief, Opinions Division

LS/MMG

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