



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

February 12, 1963

Honorable John H. Winters
Commissioner
Department of Public Welfare
Austin, Texas

Opinion No. C-13

Re: Whether, under the facts stated, a child care facility comes within the purview of Section 8(a) of Article 695(c), Vernon's Civil Statutes.

Dear Sir:

In accordance with your letter of January 16, 1963, we have carefully reconsidered Attorney General's Opinion No. WW-1310, dated April 12, 1962. This opinion was addressed to the Honorable Norman W. Barr, County Attorney, Tom Green County. In the original opinion request Mr. Barr stated in part:

"We have in our community a man and wife who conduct in their home a day time baby sitting facility which cares for not more than five children at any one time. This facility is available only during the day time for the mothers of children who work."

While Opinion No. WW-1310 is correct in stating that such a baby sitting facility does not come within the definition of a Commercial Day Care Center as defined in Subsection 1(d) of Section 8(a) of Article 695(c), Vernon's Civil Statutes, it is incorrect insofar as it leaves the impression that such a facility is not subject to licensing under the provisions of Article 695(c) of Vernon's Civil Statutes.

In our opinion the facility described in the County Attorney's request for an opinion is defined in Section 8(a) of Article 695(c), Vernon's Civil Statutes, as follows:

"1. Definitions

". . .

"(e) Commercial Boarding Home. A commercial boarding home is a private home or place of residence of any person or persons, which operates for profit, where six (6) or less children under sixteen

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(16) years of age are received for care and custody or maintenance, apart from their own family or relatives, for either part of the day or for twenty-four (24) hour-a-day care."
(Emphasis added)

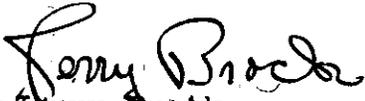
A baby sitting facility of the type described which cares for not more than six children for all or part of the day is therefore subject to licensing as a Commercial Boarding Home under the provisions of Section 8(a)1(e) of Article 695(c) of Vernon's Civil Statutes.

S U M M A R Y

A child care facility caring for six or less children and offering the services described herein is subject to licensing by the Department of Public Welfare under Section 8(a) 1(e) of Article 695(c) of Vernon's Civil Statutes, as a "Commercial Boarding Home."

Sincerely,

WAGGONER CARR
Attorney General of Texas


By: Jerry Brock
Assistant

JB:mkh

APPROVED:
OPINION COMMITTEE

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