



**THE ATTORNEY GENERAL
OF TEXAS**

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**JOHN L. HILL
ATTORNEY GENERAL**

October 16, 1974

The Honorable Joe Resweber
Harris County Attorney
Harris County Courthouse
Houston, Texas 77002

Opinion No. H- 423

Re: Licensing of child care
program established by county
community center.

Dear Mr. Resweber:

You ask whether a community center established by Harris County pursuant to Art. 5547-203, V. T. C. S., and operated by the County's Mental Health and Mental Retardation Authority (MHMRA) which provides twenty-four hour a day care for children is required to obtain a license and, if so, from whom. You also ask whether a therapeutic residential system for troubled children jointly developed and operated by MHMRA, Harris County Child Welfare, and the Harris County Juvenile Probation Department would have to be licensed.

Section 8a of Art. 695c, V. T. C. S., in Subsection 2a, requires any person, corporation, or other institution which operates a twenty-four hour a day child care facility to obtain a license from the State Department of Public Welfare. Subsection 10, thereof, exempts child care institutions owned and operated by the State of Texas from the license requirement. In Attorney General Opinion H-104 (1973) we concluded that "child-caring institutions or facilities owned and operated by counties, . . . local mental health-mental retardation units or similar political subdivisions of the State" are exempted from the licensing requirements of § 8(a) (2a) of Art. 695c by Subsection 10 of the same Section. Consequently, in our opinion, neither the Harris County community center nor a therapeutic residential system operated by various county agencies need secure licensing from the Texas Department of Public Welfare for child care programs they are operating.

Your final question is whether contributions of staff or property from public or private bodies to a MHMRA child treatment program might activate the licensing requirements of Art. 695c. Art. 5547-202, § 2.14 provides:

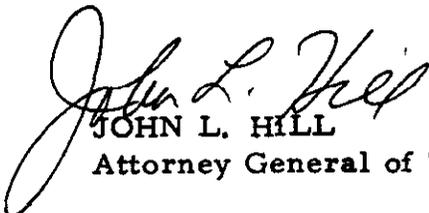
Sec. 2.14. The Department may accept gifts, grants, and donations of money, personal property, and real property for use in expanding and improving the mental health and mental retardation services available to the people of this state.

We believe this statute authorizes any MHMRA program to accept donations without changing its fundamental character, or incurring further licensing requirements. See also Art. 5547-202, §§ 2.15 and 2.18(c), (d) and Art. 5547-203, § 3.10.

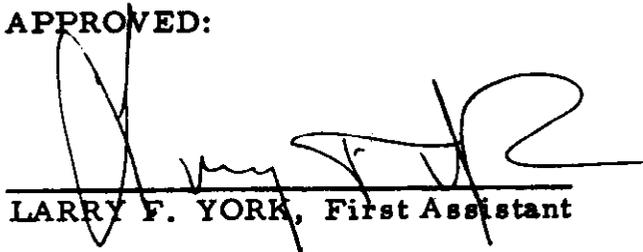
SUMMARY

Child-caring institutions operated by local mental health-mental retardation units or other political subdivisions are exempted from Texas Department of Public Welfare licensing requirements by Art. 695c, § 8(10), V. T. C. S. The acceptance of gifts or other donations would not cause publicly operated institutions to be subject to licensing requirements.

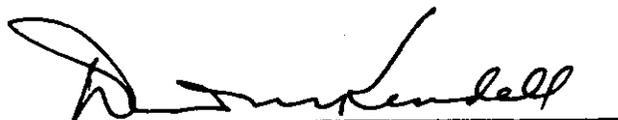
Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



LARRY F. YORK, First Assistant



DAVID M. KENDALL, Chairman
Opinion Committee

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