

**U.S. Department of Labor**

Pension and Welfare Benefits Administration  
Washington, D.C. 20210



July 12, 1996

96-11A  
ERISA SEC. 3(33)

Mr. S. Howard Kline  
Buchanan Ingersoll Professional Corporation  
One Oxford Center  
301 Grant Street, 20th Floor  
Pittsburgh, PA 15219-1410

RE: Mercy Psychiatric Institute  
Identification # A00503  
Request For Advisory Opinion

Dear Mr. Kline:

This is in response to your letter on behalf of Mercy Psychiatric Institute in which you request an advisory opinion as to the application of Title I of the Employee Retirement Income Security Act (ERISA) to the Retirement Plan for Employees of Mercy Psychiatric Hospital (the Plan). Specifically, you inquire whether the Plan is a church plan within the meaning of section 3(33) of ERISA and therefore exempt from coverage under Title I of ERISA pursuant to section 4(b)(2) of ERISA.

The term "church plan" is defined in virtually identical terms in section 3(33) of Title I of ERISA and section 414(e) of the Internal Revenue Code. The Internal Revenue Service has examined the Plan and has concluded that it is a church plan within the definition of section 414(e) of the Code. See Priv. Ltr. Rul. 9550037 (9/20/95). We see no reason to disagree with the analysis and conclusion of the Internal Revenue Service. We conclude that, to the extent that the structure and operation of Mercy Psychiatric Institute and the Plan is as described in the private letter ruling referred to above, the Plan is a church plan within the meaning of section 3(33) of Title I of ERISA and therefore exempt from coverage pursuant to section 4(b)(2) of that title.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, it is issued subject to the provisions of that procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Susan G. Lahne  
Chief, Division of Coverage  
Office of Regulations and Interpretation