

U.S. Department of Labor

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



September 17, 1996

96-17A
ERISA SEC. 3(33)

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

Dear Mr. Kline:

This replies to your request for guidance concerning the Retirement Plan for Employees of Mercy Providence Hospital ("Retirement Plan") and the Mercy Providence Hospital Group Health Plan ("Health Plan"). Specifically, you requested the views of the Department of Labor (the "Department") as to whether the Retirement and Health Plans are church plans within the meaning of section 3(33) of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA").

You submitted to the Department documentation about each Plan, including a private letter ruling recently issued by the Internal Revenue Service ("IRS") to the Plans. That private letter ruling responded favorably to the request that the IRS conclude, based on representations provided by the Plans, that they constituted church plans within the meaning of section 414(e) of the Internal Revenue Code ("Code"). As you know, section 414(e) of the Code defines the term "church plan" using language that is virtually identical to ERISA section 3(33).

To the extent that each Plan is currently operated in substantially the same manner as was described to the IRS for purposes of obtaining a private letter ruling, we see no reason to disagree with the favorable conclusion reached by the IRS concerning each Plan's status as a church plan. Accordingly, we conclude that, to the extent that the Plans' recent private letter ruling accurately describes their respective structure and operations, each Plan meets the church plan definition in section 3(33) of Title I of ERISA.

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

Sincerely,

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