

LETTER OPINION
95-L-208

August 30, 1995

Mr. Henry C. "Bud" Wessman
Executive Director
North Dakota Department
of Human Services
State Capitol, Judicial Wing
600 East Boulevard Avenue
Bismarck, ND 58505-0250

Dear Mr. Wessman:

Thank you for your letter inquiring whether the licensure of drug abuse and alcoholism treatment programs by the Department of Human Services (Department) under state law is mandatory, or whether such licensure is voluntary.

N.D.C.C. § 23-17.1-01 provides:

No person, partnership, association, corporation, or limited liability company shall establish, conduct, or maintain in the state of North Dakota a hospital, sanatorium, or addiction treatment program for the care of persons addicted to alcohol or other drugs without first obtaining a license in the manner provided in [N.D.C.C. ch. 23-17.1], unless a license has already been issued for such care under the provisions of [N.D.C.C. tit. 23].

The license to be obtained under N.D.C.C. ch. 23-17.1 is issued by the Department. N.D.C.C. §§ 23-17.1-02, 23-17.1-04. The exception in N.D.C.C. § 23-17.1-01 authorizes, for example, a medical hospital to be licensed by the State Department of Health (Health Department) under N.D.C.C. ch. 23-16 for the care of addicts rather than being licensed by the Department under N.D.C.C. ch. 23-17.1.

The meaning of a statute must be sought initially from the statutory language. County of Stutsman v. State Historical Soc'y, 371 N.W.2d 321, 325 (N.D. 1985). Words in a statute are to be given their plain, ordinary, and commonly understood meanings. Kim-Go v. J.P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990); N.D.C.C. §§ 1-02-02, 1-02-03. Consideration should be given to the ordinary sense of these words, the context in which they are used, and the

Henry C. "Bud" Wessman
August 30, 1995
Page 2

purpose which prompted their enactment. County of Stutsman v. State Historical Soc'y, 371 N.W.2d at 327.

Under the plain meaning of N.D.C.C. § 23-17.1-01, anyone desiring to operate an addiction treatment program must apply to be licensed because no such program may be conducted "without first obtaining a license" from the Department "unless a license has already been issued for such care under [N.D.C.C. tit. 23]." See also N.D.C.C. §§ 23-17.1-02 (requiring application to the Department to be licensed), 23-17.1-03 (requiring the Department to evaluate hospitals, sanatoriums, and addiction treatment programs), and 23-17.1-04 (authorizing the Department to issue licenses).

Some sections of N.D.C.C. ch. 23-17.1 relate only to facilities. See N.D.C.C. §§ 23-17.1-03 (inspections), 23-17.1-06 (confidential information), 23-17.1-07 (injunctions). Thus, there may be some question whether N.D.C.C. ch. 23-17.1 applies to programs as well as facilities. "In construing a statute, [it is proper to] consider the entire enactment of which it is a part and, to the extent possible, interpret the provision consistent with the intent and purpose of the entire Act." In the Interest of M.Z., 472 N.W.2d 222, 223 (N.D. 1991). The object sought to be obtained, the statute's connection to other related statutes and the consequences of a particular construction may be considered. Id. at 223. All sections of the statute must be construed to have meaning. County of Stutsman v. State Historical Soc'y, 371 N.W.2d at 325. "[A] statute is to be read to give effect to each of its provisions, whenever fairly possible." Id. at 325.

The 1983 Legislature amended N.D.C.C. ch. 23-17.1 to require licensing of "addiction treatment programs" in addition to the licensing of hospitals and sanatoriums as had been required in the past. 1983 N.D. Sess. Laws ch. 298. The Legislature also provided for licensing by the Department rather than the Health Department, which licenses medical hospitals and other facilities under N.D.C.C. tit. 23. Id. Under these amendments, the Department is required to evaluate a "hospital, sanatorium, or other addiction treatment program under the rules and regulations to be established by [the] department [of human services]." N.D.C.C. § 23-17.1-03. See also N.D.C.C. § 23-17.1-05 (Department to establish standards); N.D. Admin. Code art. 75-09 (providing for licensing by the Department of various alcohol and drug addiction treatment programs). To view the provisions in N.D.C.C. ch. 23-17.1, that focus on "facilities" as an indication that N.D.C.C. ch. 23-17.1 does not mandate licensing of "programs" would disregard the plain meaning of N.D.C.C. § 23-17.1-01, as well as defeat the clear purpose of the 1983 amendments.

Henry C. "Bud" Wessman
August 30, 1995
Page 3

N.D.C.C. § 23-17.1-01 plainly mandates that any person, partnership, association, or corporation establishing, conducting, or maintaining an "addiction treatment program for the care of persons addicted to alcohol or other drugs" be licensed by the Department, unless already licensed for care of addicts under N.D.C.C. tit. 23. Unless the exception applies, it is my opinion that addiction treatment programs are required to be licensed by the Department pursuant to N.D.C.C. ch. 23-17.1 and N.D. Admin. Code art. 75-09.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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