



*Sales Tax
Clinics
Hospitals*

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TAXATION

RICHMOND 23282

MEMORANDUM

TO: W. S. Cordle, Director
Field Services Division

Frank W. Lewis, Director
Office Services Division

FROM: E. A. Dore, Director
Tax Policy Division

DATE: December 10, 1980

RE: Sales and Use Tax
Definition of Clinic

Reference is made to the memorandum of July 25, 1980 from Harris Payne to Russell Whitehead requesting the definition of a clinic for sales and use tax purposes. The purpose of our response is clarify "clinic" as the term is used in Section 1-47(d) of the Regulations.

The term "clinic" is not defined in the Code of Virginia and is viewed by the Department of Health as a "loose term." The Department of Health, under the provisions of Virginia Code Section 32.1-93 through 32.1-102, basically separates health care operations into two categories - medical care facilities and physicians' offices. Medical care facilities must be issued a certificate of public need as determined by the State Board of Health, while physicians' offices are subject to no such requirement, except to the extent that a physician must obtain a certificate of public need specifically for the acquisition of certain specialized equipment.

The Health Department uses two criteria to distinguish a "clinic" from a physician's office as follows:

- (1) Do they participate in a third party payment plan based on need?
- (2) Do they perform surgery, abortion, radiation or dialysis therapy?

If a facility meets these two criteria, it is a true clinic or medical care facility and will be required to obtain a certificate of public need.

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However, the fact that a facility has been issued a certificate of public need does not subject it to direct regulation or licensure by the board of health unless it is a hospital as defined in Virginia Code Section 32.1-123.

The only sales and use tax exemptions available for health care facilities are under Section 58-441.6(s) which exempts controlled drugs purchased by a licensed physician for use in his professional practice and Section 58-441.6(t) which exempts purchases by nonprofit hospitals. It is clear that any facility licensed as a nonprofit hospital is entitled to exemption. An out-patient care facility which is a part of the same entity as the nonprofit hospital is likewise exempt.

A physician or group of physicians engaged in professional practice whether they hold themselves out as a clinic, professional corporation or otherwise, are entitled to an exemption only on the controlled drugs they purchase for use in their practice. Any other facility or group which holds a certificate of public need but is not licensed as a nonprofit hospital is not entitled to any exemption.

We intend to revise Section 1-47(d) to set forth this clarification.

If you have any additional questions, please let us know.

dlk

cc: J. Harris Payne