

Pension Benefit Guaranty Corporation

76-61

April 30, 1976

REFERENCE:

[\*1] 403(d)(1) Establishment of Trust. Application of § 4044 to Non-Covered Plans  
4021(b)(13) Plans Covered. Professional Service Employer Plans

OPINION:

This is in response to your letter of March 16, 1976.

Your letter indicates the following. \* \* \* (the "Clinic") of \* \* \* Oklahoma proposes to terminate the \* \* \* Employees Pension Trust Investment Fund (the "Plan"), a defined benefit pension plan which it presently maintains. The \* \* \* is a professional corporation organized under the laws of the State of Oklahoma, and the owners of the common stock in the \* \* \* are all duly licensed physicians. The primary business of the \* \* \* is providing medical services. As no time after September 2, 1974 has the Plan had more than 25 active participants.

Further, in a telephone conversation on March 23, 1976 with Mr. \* \* \* of the Office of the General Counsel, you indicated that all of the stock in the Clinic has been owned by licensed physicians both prior to and since the establishment of the Plan.

Based on the above, the Plan is exempt from coverage under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") by § 4021(b)(13) of the Act. Accordingly, the plan administrator [\*2] need not comply with the provisions in subtitle C of Title IV of the Act unless those provisions are made applicable under Titles I, II or III of the Act, e.g. § 403(d)(1) of the Act.

If you have additional questions, you may telephone Mr. \* \* \* at (202) 254-4895.

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Office of the General Counsel