

Pension Benefit Guaranty Corporation

75-20

January 14, 1975

REFERENCE:

[*1] 4021(b)(13) Plans Covered. Professional Service Employer Plans
4021(c)(2)(B) Plans Covered. Definition of Professional Individuals

OPINION:

This is a confirmation of the telephone call to you by * * * of our staff regarding your request for clarification of the exclusion from coverage under Title IV of the Employee Retirement Income Security Act of 1975 (the "Act") of plans established or maintained by "professional service employers". You advise that your particular concern is whether a "Veterinary Hospital" is a professional service employer within the meaning of the exclusion.

A professional service employer is any entity (it need not be a corporation) owned or controlled by professional individuals, as defined in § 4021(c)(2)(B), where both the entity and the professional individuals are engaged in the performance of the same professional service. Licensed veterinarians are "licensed practitioners of the healing arts" under § 4021(c)(2)(B). Accordingly, a plan maintained by an employer entity engaged in providing veterinary services that is owned or controlled by licensed veterinarians is a plan maintained by a professional service employer. Pursuant to § 4021(b)(13), such a plan [*2] is excluded from Title IV coverage if it does not at any time subsequent to the enactment of the Act have more than 25 active participants.

Steven E. Schanes
Acting Executive Director