



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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August 13, 1985 85-11

Ms. Jeanne G. Suminski
Vinson and Elkins
Attorneys at Law
First City Tower
1001 Fannin
Houston, Texas 77002-6760

Dear Ms. Suminski:

This is to acknowledge receipt of your letter dated July 24, 1985 concerning the financing of debts owed to hospitals by patients for medical and hospital services.

In Letter Interpretation Number 85-3, March 1, 1985 there is a statement of position of this office with regard to the financing of hospital bills by means of an open-end credit program. The type of program which you propose would be closed-end but it is our view that the basic concepts as outlined in Letter Interpretation Number 85-3 would be applicable to closed-end credit as well as open-end credit.

In your letter you state that your client, a bank, proposes to purchase accounts receivable and/or promissory notes made payable to hospitals by patients for debts owed for medical or hospital services received. The hospitals would assign the obligations to the bank and depending on the arrangement either the hospital or the bank would service the obligations and be responsible for collections. In the event of uncollectible amounts the hospitals would ultimately be responsible for those bad debts.

As you know the financing of medical services is excluded from the provisions of Article 5069 - Chapter 6, V.T.C.S. by Article 6.01(b), and therefore your proposed program would not be subject to Chapter 6.

Article 5069 - 1.04(a) allows, as a general rule, the parties to a written agreement to agree to the rates of interest authorized by Article 1.04. Other provisions of Article 5069 such as Articles 3.01, 4.01, 5.01, 15.01, 1.04(n)(1), (n)(2) and (n)(5), provide that a person needs to obtain a license from this office and/or comply with the applicable chapter of Subtitle Two or Chapter 15 of Article 5069. It is

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our view that the Texas Legislature has provided a general authority in Article 1.04(a) for persons in Texas to contract for the interest rates authorized in that section and then gone farther in other provisions such as those quoted above to provide however that if a person is engaged in the business of lending money or in making loans as covered by those chapters then such person must get a license and/or comply with the applicable chapter.

It is the position of this office that in situations where hospitals extend credit to patients or former patients for medical and hospital services furnished by the hospitals or staff members that the hospitals are not engaged in the business of lending money which would make the credit extensions subject to Article 5069 - Chapters 3, 4 or 15. Therefore, neither the hospitals nor the assignees of the accounts would need a license from this office to engage in this type of credit extensions. It is here assumed that the parties to the credit agreements would enter into valid written contracts agreeing to a rate of interest not in excess of that authorized by Article 5069 - 1.04, and that the amounts financed would only be those owed to the hospitals for medical and hospital services provided by the hospitals or their staff and would not include amounts which might be owed to a third party.

Sincerely,


Sam Kelley
Consumer Credit Commissioner