

Internal Revenue Service

Department of the Treasury

District
Director

Date:

MAY 20 1993

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates you were incorporated as a non-profit corporation under the Nonprofit Corporation Act on . The name of the Corporation is .

Article II of the Articles of Incorporation describes your purposes, and states: "The Corporation is formed for the purpose of establishing a network to educate and assist patients regarding alternate holistic treatments including and all other lawful businesses or activities, as determined from time to time by the Board of Directors, for which nonprofit corporations may be incorporated under the Nonprofit Corporation Act.

You amended your Articles of Incorporation on to include, in part, the following statement: "Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code."

Your activities, described in your application for tax exemption, include:

1. Referrals: Identify licensed who are educated and experienced in the treatment of symptoms and invite them to become members. Any interested individual may join the Network; dues for or other professionals offering services to patients are \$ for the first year and \$ per year thereafter. becoming members are placed on the Network's referral lists, invited to special workshops and receive the Network's bi-monthly newsletter. patients or interested individuals may join free of charge.

At present, [redacted] licensed [redacted] have become members and approximately [redacted] informal referrals have been made to [redacted] patients. The organization is actively seeking to identify more licensed [redacted] and [redacted] patients through brochures and direct mail.

2. Workshops: Serves [redacted] and [redacted] patients through introductory and advanced information and education workshops. The goal of the organization is to conduct quarterly programs

3. Support Groups: Offers an opportunity for [redacted] patients, family, and friends to meet on an informal basis to discuss personal experiences, problems, solutions, etc.

4. Newsletter: Presently developing a bi-monthly newsletter to be distributed free of charge to members. The newsletter will include information relevant to [redacted] patients, [redacted], membership services, upcoming workshops, etc.

5. Data Collection: Members are invited to share experiences and treatment procedures with other members. The Network's goal is to create an informal body of evidence on the effects of [redacted] on [redacted] sufferers.

The inurement and private benefit issues created by the referral service were explained to you in our letter dated [redacted] and later in a telephone conversation with the agent assigned to your case. It was pointed out that even a small amount of inurement could be fatal to exemption. In response to our letter, you replied: "At this time I do not see how we can overcome the referral part of this system because it is an integral & important part of this entire network."

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

(d)(1)(i) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In *Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279 (1945) the Court held that a better business bureau was not exclusively educational or charitable. Its activities were in part aimed at promoting the prosperity and standing of the business community, even though there was also benefit to the public. The Court stated that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single nonexempt purpose, if substantial in nature, will destroy exemption regardless of the number or importance of truly exempt purposes.

Revenue Ruling 80-287, 1980-2 C.B. 186, held: "A nonprofit lawyer referral service arranges at the request of any member of the public an initial half-hour appointment for a nominal charge with a lawyer whose name is on an approved list maintained by the organization. Any further contact between the lawyer and the client is arranged without the involvement of the organization. The referral service is not exempt under section 501(c)(3) of the Code, but it is exempt as a business league under section 501(c)(6)."

In this case, the lawyer referral service did not directly accomplish any of the established categories of Code section 501(c)(3) charitable purposes. However, the activities were designed to improve conditions within the legal profession as a whole as distinguished from performing particular services for individuals.

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In Revenue Ruling 61-170, 1961-1 C.B. 112, an association which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not entitled to exemption from Federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) of the Code since it is primarily engaged in the performance of personal services for the benefit of its members. Furthermore, the association is not entitled to exemption as a business league described in section 501(c)(6) of the Code since its primary purpose is the operation of a regular business of a kind ordinarily carried on for profit and it is engaged in rendering particular services for individual persons rather than promoting the general business conditions of the nursing profession.

You are similar to the organization described in Revenue Ruling 61-170 being engaged in performance of personal services for the benefit of its members, disqualifying you under section 501(c)(3) of the Code; and, operating a regular business of a kind normally conducted for profit (medical referral service) and performing particular services for individual persons (██████████) rather than promoting the business conditions of the whole profession, disqualifying you under section 501(c)(6).

Even though you have certain educational purposes, the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption as in latter Business Bureau, supra.

Accordingly, it is concluded that you are organized and operated for the private benefit of certain individuals and are not entitled to exemption from Federal income tax under the provisions of Internal Revenue Code section 501(c)(3) and you should file income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]

District Director

Enclosures:
Publication 892
Form 6018