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Opinion No. 63-72-L
R-278
June 7, 1963

REQUESTED BY: THE HONORABLE DR. PAUL L. SINGER
State Senator

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Can the Arizona State Health Department issue to a non-Indian Agency, incorporated in the State of Arizona as a nonprofit organization for the purpose of maintaining hospital and like institutions, a license to operate a nursing home located on an Indian Reservation.

ANSWER: Yes.

The question is answered in the affirmative as limited by the following provisions:

1. That the corporation meets the requirements set forth in the Act of Congress dated on or about August 5, 1954 (see 68 Stat. 674, 42 U.S.C. 2001-2004; 42 CFR 36). By this act the Department of Health, Education and Welfare was authorized to enter into contracts with . . . nonprofit corporations . . . whenever in its discretion, the health needs of the Indians could be better met by so doing Further, with respect to the transfer of the existing facilities constructed and maintained for a specific tribe or group of Indians, consent of their governing bodies is required. Federal Indian Law, United States Department of the Interior, Office of the Solicitor, Published in 1958.

2. The nonprofit corporation meets the requirements of the State Health Department in regard to licensed nursing homes. As a corporation properly licensed in the State of Arizona, it can do business in the State of Arizona, in any other state of the United States or in foreign countries providing it complies with the rules and regulations thereof.

Further, according to an Act passed by Congress on February 15, 1929, (See 45 Stat. 1185, 25 WSC 231 and

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amendment August 9, 1946, 60 Stat. 962, 25 U.S.C. 231)
the law provides as follows:

"The Secretary of the Interior, under such rules and regulations as he may prescribe shall permit the agents and employees of any state to enter upon Indian Tribal lands, reservations, or allotments therein (1) for the purpose of making inspection of health and educational conditions and enforcing sanitation and quarantine regulations"

Our former opinion No. 59-38 dated February 11, 1959, has no application to this question.


ROBERT W. PICKRELL
The Attorney General

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