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Robert R. Corbin

December 18, 1979

INTERAGENCY

The Honorable Trudy Camping  
Arizona State Senator  
Senate Wing, State Capitol  
Phoenix, AZ 85007

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**ARIZONA ATTORNEY GENERAL**

Re: I79-297 (R79-090)

Dear Senator Camping:

Your memorandum of March 27, 1979 relates to skilled nursing facilities and inquires whether certain regulations fulfill the requirements of A.R.S. § 36-405.B. Although it is unclear just which regulations are referred to, we will assume that you mean regulations of the Department of Health Services that apply to subclasses of nursing care institutions.

A.R.S. § 36-405.B reads as follows:

The director [Department of Health Services] shall, by regulation, establish a health care institution classification for nursing care institutions, with subclassifications including, but not limited to, skilled nursing facilities, intermediate care facilities and personal care facilities. Such regulations shall provide for the number, type and scope of nursing services, other supportive services and standards of patient care required for each subclass of institution.

This subsection directs that nursing care institutions, a class of health care institutions, be subclassified into three or more categories, including skilled nursing facilities, intermediate care facilities and personal care facilities. Prior to 1978, personal care facilities were considered part of the "residential care facility" classification.

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The applicable regulations have not yet been revised to reflect the legislative change, so that current Department of Health Services regulations do not precisely implement all the requirements of A.R.S. § 36-405.B. For example, the personal care regulations, A.C.R.R. R9-10-811 et seq. do not specify the "number, type and scope of nursing service". However, based on drafts submitted to this office for review, it is our understanding that the Department of Health Services plans to adopt new regulations which will implement all the statutory requirements. Insofar as I am aware, a date for public hearing of these new regulations has not yet been set.

Your second question inquires as to why there is a need to classify patients rather than facilities. We are unsure which regulation or regulations appear to classify patients; however, we have reviewed proposed regulations which classify nursing and residential facilities on the basis of service actually provided by the facility and by the actual needs of the patient. It may be that careful examination of the pertinent regulations will reveal that the patient classification system is, in effect, a mechanism to assist in classifying the facility in which the patient resides.

If we can assist you further in this matter, please direct our attention to the regulation or regulations of concern.

Sincerely,



BOB CORBIN  
Attorney General

BC/mm