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Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert H. Corbin

September 3, 1982

Rev. Kenneth H. Buckwald, President  
Board of Examiners for Nursing Care  
Institution Administrators  
1645 West Jefferson, Room 312  
Phoenix, AZ 85007

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ARIZONA ATTORNEY GENERAL

Re: I82-092 (R82-088)

Dear Reverend Buckwald:

In your letter of June 11, 1982, you asked whether a provision in Chapter 321, 1982 Ariz. Sess. Laws, 2nd Reg. Sess., <sup>1</sup>/<sub>1</sub> prohibits licensed nursing care institutions from establishing and maintaining personal fund accounts for county indigent patients who reside at the nursing care institution.

Currently, and for many years, many of Arizona's licensed nursing care institutions have established and maintained personal fund accounts for patients, including indigent patients the cost of whose care is partially borne by the county of residence pursuant to A.R.S. §§ 11-291 through 11-304. A personal fund account is an account of patient monies maintained as a ready source of funds to be spent on behalf of the patient, usually for personal items like slippers, snacks and clothing. When any patient, or the responsible party for a patient (such as a guardian or a conservator), authorizes a nursing care institution to establish and maintain such a personal fund account, the nursing care institution must comply, of course, with the agreement with the patient or responsible party and

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1. Chapter 321 amends A.R.S. §§ 36-446 through 36-447.06.

with all applicable provisions of law.<sup>2/</sup> The question, then, is whether Chapter 321 now prohibits licensed nursing care institutions from establishing and maintaining such personal fund accounts for county indigent patients.

Chapter 321 amended various sections of Article 6, Chapter 4, Title 36 of the Arizona Revised Statutes governing the licensure of nursing care institution administrators. One section of Chapter 321, codified at A.R.S. § 36-446.07.A.3, provides in pertinent part:

A. The board [of Examiners for Nursing Care Institution Administrators] may suspend or revoke the license of any nursing care institution administrator, censure or place on probation any licensed nursing institution administrator or deny a license as nursing care institution administrator to any person for any of the following reasons:

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3. Establishing or handling a patient's personal fund account for any indigent patient of a county.

This section describes one of the bases upon which the Board may discipline licensed nursing home administrators. The language of this section is plain and unambiguous; accordingly, the section must be interpreted and enforced according to its clear language, unless to do so would lead to absurd results. See, e.g., Smith v. Pima County Law Enforcement Council, 113 Ariz. 154, 548 P.2d 1151 (1976).

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2. For example, in the case of skilled nursing facilities, A.C.R.R. R9-10-716.6 of the Arizona Department of Health Services requires the nursing home to designate at least one person to be responsible for all patient fund accounts, requires that person to be bonded, requires the nursing home to keep a record of all receipts and expenditures relating to the patient's account, and requires the home to furnish the patient with a quarterly accounting of transactions involving the patient's personal fund account.

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This section effectively prohibits the administrator of a nursing care institution from establishing or handling personal fund accounts for indigent patients. Inasmuch as the administrator is charged with general administration of the nursing care institution, see A.R.S. § 36-446.1, we think the Legislature intended the proscription to apply to all personnel under his direction, involved in the administration of the institution.

Finally, we note that the administrator is still permitted to establish and maintain personal fund accounts for nonindigent patients. The rational basis for distinguishing between nonindigents and indigents is not clear. Moreover, the statutes governing the licensure of the nursing care institution, A.R.S. §§ 36-447 through 36-447.20, do not prohibit nursing care institutions from maintaining personal fund accounts, whether for indigents or nonindigents. We suggest, therefore, that you ask the Legislature to clarify its intent with respect to this matter.

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

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