



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

December 5, 1974

OPINION LETTER NO. 275

Mr. Lawrence Graham, Director
Department of Social Services
221 West High Street
Jefferson City, Missouri 65101

Dear Mr. Graham:

You have requested our legal opinion on the following question:

"Can the nursing home administrator, owner, or legal counsel demand an inspection during the time after the administrative hearing denying a license has been held, after a decision has been rendered by the Director of the Missouri Division of Health, and while an appeal to the courts by the nursing home management is pending?"

You advise us that in 1970 the Division of Health revoked the license of a particular nursing home, that the home subsequently changed ownership, that the new owner applied for a nursing home license, that an administrative hearing was conducted in 1973 and a decision made to deny the application for license, that the new owner's appeal from this decision is now pending in the circuit court, and that the new owner has again applied for a license and demanded an inspection of the premises.

It is our view that if a person submits an application for a nursing home license pursuant to the Nursing Home Licensure Law, Sections 198.011-198.170, RSMo, and the nursing home license is denied, and that if, during the pendency of an appeal of the denial of such license, the person who was denied a license can rectify any conditions that may have been instrumental in denying him a license and that if such person, during the pendency of the appeal, asserts that he does have an institution which complies with

Mr. Lawrence Graham

all the licensing requirements, the person could then make an application for a license and the Division of Health would have to inspect the premises to determine whether or not, as of the date he made the new application for a license, he was entitled to be issued such license. It is our view that if, at any time, a person applying for a license contends that the facility meets all the requirements for the granting of such license, an inspection should be made and a new decision made on granting the license even though there is still under appeal a decision that the person was not, at a previous time, entitled to be issued such license.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General