STATE OF CALIFORNIA PETE WILSON, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
LEGAL SECTION
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H. THOMAS CADELL, JR., *Chief Counsel*

February 3, 1994

Lani Meanley Collins
Price, Postel & Parma
200 East Carrillo Street
Santa Barbara, CA 93101-2190

Re: **Personal Attendant Exemption - Wage Order 15**

Dear Ms. Collins:

I am in receipt of your letter of January 5, 1994, wherein you ask for clarification or modification of Interpretive Bulletin 86-1 on the ground that one of our offices is arguably misinterpreting the wording of the Bulletin.

Interpretive Bulletin 86-1 provides, *inter alia* that "any worker who regularly gives medication or takes temperatures or pulse or respiratory rate" is not to be treated as a personal attendant. I see nothing wrong with that language. The key to the definition is the word "regularly" coupled with the words "give" and "take". I find that the Interpretive Bulletin correctly reflects the law.

I believe your concern is with the proper application of the facts to the law.

You contend that the Senior Deputy in Santa Barbara interprets the language of the Bulletin to mean "that all the employee needs to do is to hand a pill or other medication to the employer and that, by itself, is sufficient to find that the employee 'falls within some classification of nurse, licensed or unlicensed,' and therefore, <u>not</u> a personal attendant." That definition, standing alone, would not be correct. However, that definition coupled with other facts would be correct.

I suggest that it would be impossible to so define the duties of the personal attendant so that there could be no question of the status of the individual. As with any of the laws the Division is mandated to enforce, the Interpretive Bulletins provide guidelines only and do not attempt to address every factual situation.

I am sorry that I can not be of more assitance to you in this matter. If you have any further concerns regarding this question I suggest that you address them to the Industrial Wefare Commission.

Yours truly,

H. THOMAS CADELL, JR.
Chief Counsel

c.c. Victoria Bradshaw
Dan Cornett
Gus Carras
Simon Reyes