

Opinion No. 47-5032

May 23, 1947

BY: C. C. McCULLOH, Attorney General

TO: Murray Hintz Director State Dept. of Public Welfare Santa Fe, New Mexico

{*53} We are in receipt of your letter of May 22, 1947 in which you ask whether under Senate Bill 151, which will be Chapter 130 of the Laws of 1947, it is mandatory that the records of the Department of Public Welfare be open for inspection. Chapter 130 provides in part as follows:

{*54} "Every citizen of this state has a right to inspect any public records of this state, except records pertaining to physical and mental examination and medical treatment of persons confined to any institution and **except as otherwise provided by law.**"

Sections 73-134, 73-136, 73-137 and 73-138 of the New Mexico 1941 Compilation provide that records of the Department of Public Welfare shall not be open to inspection except under limited circumstances. Thus, the records of the Department of Public Welfare are not made open to inspection by virtue of Chapter 130, since it is otherwise provided by law.

It is, therefore, my opinion that since other provision is made by law, prohibiting the inspection of records of the Welfare Department, that you are not required to permit any person to inspect the records of the Department of Public Welfare, except under the limited circumstances set forth in the above mentioned sections.

In addition, it is noted that under Chapter 130, records may be inspected only by "all persons having occasion to make examination of them for any lawful purpose."

Thus, even if Chapter 130 be applied, only persons having a lawful interest could inspect them.

By ROBT. W. WARD,

Asst. Atty. General