

**Opinion No. 49-5271**

December 28, 1949

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Dr. James R. Scott, Director Department of Public Health Santa Fe, New Mexico

{\*117} I am in receipt of your letter of December 15, 1949, in which you inquire whether the State Board of Health has authority to set up rules, regulations, and standards to cover the licensing of all hospitals, nursing, and convalescent homes in the State of New Mexico.

In the official opinion of the Attorney General, No. 4329, dated February 18, 1943, it is stated:

". . . . The State Board, under Section 71-103 and 71-104 of the New Mexico 1941 Compilation, is given broad powers to adopt rules and regulations as they may think necessary and appropriate for the protection of the public health and the prevention of the spread of communicable diseases. Unquestionably the rules and regulations adopted are within the power of the State Board as set forth in the laws."

Later opinions of the Attorney General have also acknowledged the broad powers of the State Board to promulgate rules and regulations to better carry out the intent of the Act.

Chapter 202, Section 10, subsection (3) of the 1947 Session Laws provides for the rules and regulations as to licensing of all hospitals which are constructed with Federal aid monies. It is therefore my opinion that the State Board of Health has the authority to set up rules and regulations, and standard to cover the licensing of all hospitals, nursing and convalescent homes in the State of New Mexico, provided that said Board is guided by Chapter 202, Section 10 sub-section (8) of the 1947 session laws in regard to all hospitals which are constructed with Federal Aid monies.