

**Opinion No. 51-5457**

November 14, 1951

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

**TO:** Mr. Joe P. Valdez Finance Director New Mexico State Hospital Las Vegas, New Mexico

{\*166} This is in reply to your letter of November 2, 1951, in which you request an opinion on behalf of the Members of the Board of Directors of the New Mexico State Hospital concerning a question that has arisen as to their authority to pay for transportation, meals and incidental expenses when a discharged indigent mental patient is in transit from the New Mexico State Hospital to his place of destination.

I have done quite a bit of research and I fail to find any statute that would specifically authorize the Board to pay these costs, however, it is my opinion that jointly considering the hereinafter quoted statutes the Board has wide discretionary powers in the control of disbursements and expenditures of all funds of the State Hospital, in taking care and having the custody of all patients confined in the State Hospital.

§ 37-102, N.M.S.A., 1941 Compilation, reads:

"The management and control of said asylum, the care and preservation of all property of which it shall become possessed, the erection and construction of all buildings necessary for its use, and the care and custody of all patients therein confined, and the disbursement and expenditure of all moneys appropriated by this article or received in any other manner for its use, shall be vested in a board of directors."

§ 37-103, N.M.S.A., 1941 Compilation, reads:

"Said board of directors and their successors in office shall constitute a body corporate, under the name and style of, the directors of the Insane Asylum of New Mexico, with the right as such of suing and being sued, contracting and being contracted with, of making and using a common seal and altering the same at pleasure, or (and Of) causing all things to be done necessary to carry out the provisions of this article with reference to said insane asylum. The majority of said board shall constitute a board for the transaction of business, but a less number may adjourn from time to time."

§ 37-110, N.M.S.A., 1941 Compilation, reads:

{\*167} "The said board of the asylum shall have the discretionary powers, in case of absolute necessity, to remove patients to the nearest possible safe and appropriate place; - - -"

Under all these quoted sections, the Board of Directors is authorized and is given wide discretionary powers to do what is best for the welfare of the patients.

I have also discussed this matter with Mr. Pete Baca, of the State Comptroller's office, and he concurs with me in my opinion that the Board has wide discretionary powers and authority to pay for the transportation of indigent patients that have been discharged from the hospital while they are in transit to their places of destination.

Trusting that this fully answers your inquiry, I remain