

**Opinion No. 52-5543**

May 21, 1952

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

**TO:** C. G. Stillinger, M. D. Acting Superintendent New Mexico State Hospital Las Vegas, New Mexico

{\*254} Replying to your letter of April 14, 1942, in which you request an opinion as to whether or not the Superintendent of the State Hospital has the power and authority to fix fees charged to non-indigent patients, please be advised that under Sec. 37-110 New Mexico Statutes Annotated, 1941 Compilation, the power of fixing fees for non-indigent patients is conferred upon the Board of Directors of the New Mexico State Hospital, and the pertinent part of the above statute reads as follows:

". . . to make regulations and fix the terms upon which insane patients who are not indigent or who are not residents of the state shall be permitted to enter or be carried for in said asylum and all receipts from such source must be paid into the state treasury to the credit of the insane asylum fund . . ."

It is therefore my opinion that only the Board of Directors, by proper rule and regulation, may set the fees to be charged non-indigent patients, and said fees cannot be changed except by the Board by a proper resolution.

Your second question is whether, upon investigation by the Superintendent, a judicially declared indigent patient is found in fact to be non-indigent, may the Superintendent declare him a non-indigent patient. The answer is No. Only the Court can do that. However, the duty devolves upon the Secretary of the Board or its agent to make the estate or guardian of said patient contribute towards his support or to institute necessary legal proceedings to compel the payment by any indigent patient who has property or money to pay for his keep. I call your attention to § 37-215 of the New Mexico Statutes Annotated, 1941 Compilation.

I trust that this will answer your inquiries.