

Opinion No. 53-5662

February 6, 1953

BY: RICHARD H. ROBINSON, Attorney General

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

{*52} Receipt is acknowledged of your letter January 30, 1953, in which you request an opinion, first, as to whether the Board of Directors of the State Hospital has authority to charge off uncollectible accounts for the maintenance of pay-patients when it has been definitely determined that the accounts are uncollectible.

We find that under Article 4, Section 32, New Mexico Constitution, it states:

"No obligation or liability of any person, association or corporation, held or owned by or owing to the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, postponed, or in any way diminished by the legislature, nor shall any such obligation or liability be extinguished except by the payment thereof into the proper treasury, or by proper proceeding in court."

In view of the above constitutional provision, the State Hospital, in our opinion, has no authority to remit or release any debt or uncollectible account.

As to your second question of whether or not the Board has authority to discontinue maintenance charges against these uncollectible accounts, it is found under Section 37-308, New Mexico Statutes Annotated, 1941 Compilation, that an order of Court has to be entered in every case as shall be found proper for payment of monthly or quarterly sums for the support and maintenance of pay-patients.

{*53} In most cases, the Court committing a patient as a pay-patient is the only one who can have said order changed from that of pay-patient to indigent patient, if said Court is satisfied that said change should be made. The district committing the patient retains jurisdiction of the case. Therefore, the Board has no authority to discontinue charges against these uncollectible accounts.

It is the opinion of this office that there is no method or means by which outstanding accounts can be written off as uncollectible. However, if the Hospital Board finds that a patient is indigent, but sent originally to the Hospital as a pay-patient, the Board should have the status of such patient changed by submitting a petition to the district court which committed him or her, thus avoiding the necessity of running accounts in the future which will also be uncollectible.

We trust that this opinion fully answers your inquiry.

By: Hilario Rubio

Assist. Attorney General