

Opinion No. 53-5753

May 14, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Hon. Richard F. Rowley District Attorney Ninth Judicial District Clovis, New Mexico

{*154} This will acknowledge receipt of your letter of May 5, 1953, in which you ask whether district health officers are permitted and may be required to give medical aid to prisoners in the county jail.

Sec. 71-206 of the 1941 Compilation, Pocket Supplement, prohibits district health officers from engaging in the private practice of medicine except upon express permission given by the State Board of Health where the board has declared an emergency to exist. It is our opinion that this section prohibits district health officers from engaging in the practice of medicine except in conjunction with their duties as health officers. The district health officer, by virtue of § 71-210 of the 1941 Compilation, Pocket Supplement, has the duty of exercising and carrying out the policies and programs of the said Board of Public Health.

An examination of §§ 71-103 and 71-104 of the 1941 Compilation, relating to the powers and activities of the State Department of Public Health, indicates that that department, and by virtue thereof, the district health officer is without authority to render medical aid to the prisoners in the county jail. This, of course, does not prohibit the State Board of Health from specifically authorizing a district health officer to render this service if the board declares an emergency to exist.

By: W. R. Kegel

Assist. Attorney General