

Opinion No. 53-5839

November 4, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Dr. R. C. Derbyshire Board of Medical Examiners Santa Fe, New Mexico

{*257} On October 23, 1953, you addressed an inquiry to this office concerning whether or not a medical license once revoked may be reinstated.

§ 51-507, New Mexico Statutes Annotated, 1941 Compilation, provides for the revocation of a medical license and the requirements and procedure for such revocation. No-where in the statutes do we find authority for "suspension" or "reinstatement" of a license once revoked.

In 41 Am. Jur. 187, it is stated:

"The power to permanently revoke a license to practice (medicine) includes the power to suspend from practice, and where an examining board finds a licensed practitioner has been guilty of unprofessional conduct warranting revocation, it is not put to the alternative of acquitting him or permanently revoking his license but may suspend him from practice . . ."

Most states have statutory provisions for the suspension of a physician's license and for the reinstatement after a **suspension**. Generally, the statutes provide for a procedure to suspend and then a more drastic procedure for revocation of a license. The statement that the power to revoke carries with it the power to suspend would indicate that the Board has a choice of three courses: first, to revoke; second, the intermediate alternative of suspension; and, third, outright acquittal. If a physician is suspended that suspension may be for a stated period or it may be for a period indeterminate but based upon the completion of certain requirements. In the event a license is revoked, however, we find no authority for reinstatement without specific statutory authorization.

The method of admission under the New Mexico statute is found at §§ 51-502 -- 51-505, New Mexico Statutes Annotated, 1941 Compilation, and we believe that this method of admission, whether as a new licensee or for readmission after revocation, is exclusive.

Therefore, it is the opinion of this office that the Board of Medical Examiners has the power to suspend inherent in its power to revoke a license but in the event revocation is accomplished, the only method of reinstating such revoked licensee to full privileges is by the means of reapplication.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General