

Opinion No. 57-209

August 22, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Mr. Earl M. Coffee, Administrator, Miners' Hospital of New Mexico, Raton, New
Mexico

QUESTION

QUESTIONS

1. Does the State have complete ownership of the laboratory and X-Ray departments of the Miners' Hospital of New Mexico?
2. If the answer to question one is in the affirmative, may the laboratory equipment be sold, rented or leased to the medical staff of the hospital?

CONCLUSIONS

1. Yes.
2. See Opinion.

OPINION

ANALYSIS

For the purpose of this opinion, we assume from the presentment of your letter and the attached copy of an "agreement" that the equipment and facilities considered are, as a matter of fact, part of the Miners' Hospital proper, and not such as have otherwise been contracted for by the Board of Trustees.

The Miners' Hospital of New Mexico, at Raton, was created by § 4, Chap. 2, Laws of 1903, and is governed in its operation by the general provisions as found in Article 3, Chapter 13, N.M.S.A., 1953 Comp.

§ 13-6-1, N.M.S.A., 1953 Comp., in stating the purpose and use to be made of the hospital provides, in part, as follows:

"The Miners' Hospital of New Mexico is intended and meant to be for the free treatment and care of resident miners of the state of New Mexico, who may become sick or injured in the line of their occupation; . . ."

In the creation of the Miners' Hospital, the original law of 1903, supra, provided:

"There is also hereby created and established an institution to be known and called the 'Miners' Hospital of New Mexico,' which institution is hereby located at the city of Raton in Colfax County, New Mexico"

It is pointed out that no provision is found in either the original act or that presently controlling whereby there is provided the establishment or maintenance of a laboratory or X-Ray department separate from the hospital. Accordingly, it may be concluded that any facility and or equipment provided for in the establishment of the Miners' Hospital became an integral part of that state institution and is fully owned by the State of New Mexico.

Reference to the general provisions governing state institutions, § 13-3-1, N.M.S.A., 1953 Comp., provides, in part, that:

"The management and control of each of said institutions (. . . , and Miners' Hospital of New Mexico) mentioned in this article, the care and preservation of all property of which they shall become possessed, the erection and construction of all buildings necessary for their use, and the disbursement and expenditure of all moneys appropriated by the state of New Mexico, or which shall otherwise come into their possession, shall be vested in a board of five (5) trustees, one (1) of such boards for each of said institutions . . . Said trustees and their successors in office shall constitute a body corporate, under the name and style of "the trustees of the Miners' Hospital of New Mexico," respectively, with the right as such of suing and being sued, of contracting and being contracted with, . . . and of causing all things to be done necessary to carry out the provisions of this article"

The foregoing law was enacted pursuant to Sections 1 and 3, Article XIV, New Mexico Constitution, which confirms the Miners' Hospital as a State institution and provides for its management. In keeping, further, with the constitutional and statutory provisions aforesaid, it is our opinion all equipment acquired by or coming into the possession of the Board of Trustees is owned by the State.

Your second question brings forth a consideration of the authority which may be exercised by administrative bodies. In Attorney General's Opinion No. 6001, August 13, 1954, it was pointed out that:

"Although the powers of administrative boards are limited by the statute creating them, as we stated in Opinion No. 5755, the authorities are just as strong to the effect that they are deemed to have all those powers which may be necessary or essential in connection with the performance of their duties, 73 C.J.S. 374 and Attorney General's Opinion No. 5831."

In Opinion No. 5755, supra, 42 Am. Jur. is quoted at Section 26, Public Admin. Law, as follows:

"Administrative boards, commissions, and officers have no common-law powers. Their powers are limited by the statutes creating them to those conferred expressly or by necessity or fair implication. General language describing the powers and functions of an administrative body may be construed to extend no further than the specific duties and powers conferred in that statute."

See § 6-1-8, N.M.S.A., 1953 Comp., (p.s.), which empowers the various State agencies to sell property and provides as follows:

"Any department, commission, agency or **institutional board** of this state is hereby empowered to sell or otherwise dispose of real or personal property belonging to such state department, commission, agency or institution, subject to the approval of the state board of finance. The state comptroller (Finance Director) shall have the power to credit any payment received from the sale of any such real or personal property to whatever fund of such state department, commission, agency or institution as he deems appropriate. And the head of such department, or the president, or chairman of the commission, or the governing board of such agency or institution is hereby authorized to execute such deeds, leases, right-of-way easements, bills of sale or other documents necessary to convey all or any interest in said real or personal property, without warranty."

The aforequoted 1955 law, which amends the earlier statute, provides the method for disposing of state property. In view of the fact that § 13-3-1 provides authority for the Board of Trustees to possess and erect necessary buildings, disburse and expend appropriated moneys, sue and be sued, enter contracts and do all things otherwise provided for in the conduct of the Miners' Hospital, it is our opinion that the renting or leasing of facilities and equipment would not be outside the authority granted. And, further, it is our opinion that a sale of laboratory and X-Ray equipment, owned by the State, may be made by the Chairman of the Board in accordance with the provisions of § 6-1-8, N.M.S.A., 1953 Comp., (p.s.), supra.