

Opinion No. 57-219

September 9, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Dr. C. G. Stillinger, Superintendent, New Mexico State Hospital, Las Vegas, New
Mexico

QUESTION

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May the Board of Directors of the New Mexico State Hospital authorize a scholarship fund for educational purposes for members of their Social Service Department, the funds for the scholarship being obtained from regular hospital funds?

CONCLUSION

No.

OPINION

ANALYSIS

On July 30, 1957, the following resolution was adopted at a meeting of the Board of Directors of the New Mexico State Hospital, subject to an opinion of this office:

RESOLUTION

BE IT RESOLVED that the Board of Directors of the New Mexico State Hospital create a scholarship fund in Social Service for the training of personnel employed by the Hospital, granted leave for such training, and for which proper budgeting will be arranged.

The scholarship fund proposed in the above resolution is to be in the amount of \$ 1,200.00 a year, and the member securing the scholarship aid would achieve graduate training at an approved college or university.

It has generally been stated that a state legislature has full control, not only over the levy of taxes but over the disposition of all public revenue. This power extends to such funds as are acquired by a political subdivision of the State, subject only to constitutional restrictions. In view of the above, the question arises as to whether the Legislature has, by direct legislation or by delegation of authority, authorized the Board of Directors of the New Mexico State Hospital to take the proposed action.

Turning to the applicable statutory provisions, § 34-1-1, N.M.S.A., 1953 Compilation, states the object of the Hospital to be the proper care of the indigent insane of the State of New Mexico, and to provide suitable accommodations and maintenance thereof. Section 34-1-2, N.M.S.A., 1953 Compilation, directs that the management and control of the Hospital shall be effected by a Board of Directors, and specifically states:

"The management and control of said asylum, the care and preservation of all property of which it shall become possessed, the erection and construction of all buildings necessary for its use, and the care and custody of all patients therein confined, and the disbursement and expenditure of all moneys appropriated by this article or received in any other manner for its use, shall be vested in a board of directors.

At § 34-1-7, N.M.S.A., 1953 Compilation, the Board of Directors is given the power and the authority to enact laws, rules and regulations not inconsistent with the laws of the State for the governing of the said hospital.

Although the above statutes give the Board of Directors of the New Mexico State Hospital wide discretion in regard to the control of disbursements and expenditure of all funds of the State Hospital, we believe that such authority must necessarily be restricted to providing suitable accommodations and proper care for indigent patients. We are cognizant of the fact that the state Universities are authorized to give free scholarships to students, as well as sabbatic leave to their staff, but such is specifically authorized by State law. Should the Directors of the New Mexico State Hospital wish to proceed further as indicated by the resolution, such authority, we feel, should come from the New Mexico State Legislature.