

## **Opinion No. 57-330**

December 31, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Howard M. Rosenthal,  
Assistant Attorney General

**TO:** Board of Directors, Carrie Tingley Hospital, Truth or Consequences, New Mexico

### **QUESTION**

#### QUESTION

Are resident physicians at Carrie Tingley Hospital for Crippled Children required to register motor vehicles in the state of New Mexico?

#### CONCLUSION

If they are New Mexico residents, Yes. If they are not New Mexico residents, No.

### **OPINION**

#### ANALYSIS

This opinion request from Dr. Ward B. Studt is considered as emanating from the Board of Directors.

The conclusion arrived at in this opinion is based entirely on Attorney General's Opinion 57-79, issued April 23, 1957, in which Section 64-6-1 (d) is held unconstitutional by virtue of *State v. Pate*, 47 N.M. 182, 138 P 2d 1006.

*State v. Pate* holds that differentiation within a class is discriminatory and hence unconstitutional, and the above Attorney General's opinion likewise held that placing a burden on "nonresidents" who hold employment in New Mexico is discriminatory as against that portion of "nonresidents".

This holding on one portion of Section 64-6 does not apply to such other portions as are not equally discriminatory. Section 64-6-1 (a) provides that a nonresident owner of a vehicle may operate such vehicle without registering the same in New Mexico, if it bears valid registration plates in the place of the owner's residence.

The question then becomes one of fact - if your resident physicians are New Mexico residents they are required to purchase resident plates - if they are not New Mexico residents they need not.

While no absolute definition is here attempted, for your guidance in this matter, we offer a formula. If the individual intends to return to a place where his political rights are exercised and where he is subject to taxation, etc., he is a non-resident of New Mexico. If such intent to return to his "legal residence" is absent and his intention is to be a New Mexico resident, he is a New Mexico resident and should comply with the Motor Vehicle Act on registration.