

Opinion No. 58-79

April 10, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mr. Leo P. Schwartz, Administrator, Carrie Tingley Hospital, Truth or Consequences, New Mexico

QUESTION

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Is it legal for Carrie Tingley Hospital to enter into a contract with New Mexico Blue Cross, whereby it would be agreed that the Hospital would accept for treatment the Blue Cross members?

CONCLUSION

No, not for general hospitalization.

OPINION

ANALYSIS

In our opinion, your question is answered by Opinion of the Attorney General No. 4777, rendered August 23, 1945, in which the Honorable C. C. McCulloh held:

"Section 5-301 of the N.M. 1941 Compilation states the purpose for creating the Carrie Tingley Crippled Children's Hospital to be to provide for the proper care and treatment for the crippled children of New Mexico.

Section 5-306 of the N.M. 1941 Compilation uses this language:

'The Board of Directors shall have the power and it shall be its duty to make rules and regulations for the admission of all patients, and to provide for social investigation as an aid to that end. The Carrie Tingley Crippled Children's Hospital is intended and meant to be for the treatment and care in cooperation with the State Department of Public Welfare of the crippled children of this state who are indigent, and whose parents and guardians are unable to bear the expense of such care and treatment.'

and concluded by holding:

"Thus, it is apparent that the name of the hospital, together with all of the statutory authority for its operation, is limited to treatment and care of crippled children, under the

existing law, and there would be no authority to treat cases other than that of orthopedic diseases."

The proposed contract, which has been submitted to this office, would cover hospital care of Blue Cross members in general, and isn't limited to care for crippled children of this state. Accordingly, we must decline to approve it.

On the other hand, we know of nothing to prevent Carrie Tingley Hospital and New Mexico Blue Cross from entering into a contract for the care of crippled children of this state, giving priority to those in the latter category who are indigent or whose parents or guardians are unable to pay for their care and treatment.