

Opinion No. 58-67

April 1, 1958

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

TO: Miss Hazel Gardner, Administrative Assistant, Commission on Alcoholism, P. O.
Box 2111, Santa Fe, New Mexico

QUESTION

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"In the event that any Law Enforcement Agencies find it necessary to serve warrants or obtain information of any nature on any patients hospitalized at our Lodges, to what extent should our Lodge Personnel go, bearing in mind the anonymity of the patient under Section 9 of our Enabling Laws?"

CONCLUSION

Warrants and other court process may be served. Voluntary inmates are protected from certain information disclosures without a court order.

OPINION

ANALYSIS

Section 46-12-9, N.M.S.A., 1953 Compilation, appears to be dispositive of the material raised in your inquiry. The section is here quoted in full:

"Upon the recommendation of the commission, the managers, trustees or directors of any institution established by the laws of this state may receive any habitual drunkard, chronic alcoholic, dipsomaniac, or any person who has lost the power of selfcontrol through the intemperate use of spirituous or intoxicating liquors, who shall apply to be received into such institution, treat and retain him in the same manner as if committed by the district court and release him pursuant to the provisions of section 8 (46-12-8) of this act. Any resident of the state of New Mexico who voluntarily submits himself for treatment in accordance with this act shall not forfeit or abridge thereby any of his rights as a citizen of the state of New Mexico, nor shall the fact that he has submitted himself for treatment or that he has been given help or guidance be used against him in any proceeding in any court. The record of any such voluntary patient shall be confidential and shall not be divulged except on order of the court."

As is seen, this section does not, in any way, prohibit the giving of information on patients hospitalized involuntarily. Apparently, it was the purpose and intent of our

Legislature to look upon an involuntary hospitalization for alcoholism as a form of incarceration. Consequently, the Legislature set up no safeguards whatever on the divulgence of information concerning such.

As to those who voluntarily seek hospitalization at our alcoholism centers, a different situation exists. The section provides, among other things, that no one who voluntarily seeks the help of your organization by submitting himself for treatment shall have such submission for treatment used against him in any court proceedings. Also the record of such voluntary patient must be held confidential unless divulgence is ordered by a court.

The service of a warrant is not in violation of either of these confidential compulsions. No violation, in our opinion, exists as to § 46-12-9 by permitting a warrant to be served on any of your patients.

As to "information" as is made the subject of your inquiry the situation is quite different. If the information sought from any one, whether of a private or official stature, is in any way connected with the material on the record of such voluntary patient or concerns information divulged to your organization as a natural concomitant of such admission, then we are of the opinion that you are prohibited from divulging such information without an order of the court. Information not coming within these categories is not, under § 46-12-9, to be held confidential.