

Opinion No. 60-170

September 21, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Miss Hazel Gardner Administrative Assistant N. M. Commission on Alcoholism 116 East De Vargas Street Santa Fe, New Mexico

QUESTION

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May the Commission assign promissory notes of former Navajo patients to the Navajo Tribal Council after the Council has made payment in full of such indebtedness on the behalf of such individuals?

CONCLUSION

Yes.

OPINION

{*561} **ANALYSIS**

Pursuant to agreement with the Commission on Alcoholism, the Navajo Tribal Council on July 11, 1960 made payment in full of all accounts incurred to June 30, 1960 by Navajo patients admitted to Rehabilitation Centers for treatment. It is the practice of the Commission to secure promissory notes from all patients entering Rehabilitation Centers to help insure the payment for cost of subsistence, care and treatment. We are informed that the Commission appreciates the action of the Navajo Tribal Council and desires to accommodate the tribe by assigning to it the unpaid promissory notes of former Navajo patients. The Tribal Council then proposes to collect the unliquidated debt from the individuals involved.

This office sees no legal obstacle to the accomplishment of the desired end. Section 46-12-12, N.M.S.A., 1953 Compilation, provides as follows:

"The provisions of law with respect to the costs of commitment and the costs of support, including methods of determination of the persons liable therefor, and all provisions of law enabling the state to secure reimbursement for any such items of cost, applicable to the commitment and support of mentally ill persons in state hospitals, shall apply with equal force in respect to each item of expense incurred by the state in connection with the commitment, care, custody and treatment of any person committed to the commission or to any institution maintained {*562} by the state. Voluntary patients may be required to pay the costs of their subsistence, care and treatment."

It is noted that the law governing support of and cost of treatment of mentally ill persons is equally applicable to expenses incurred by the state in treating patients at Commission operated rehabilitation centers. We, therefore, refer to § 34-2-23, N.M.S.A., 1953 Compilation, which deals with the enforcing of payment for maintenance of mental patients in the New Mexico Insane Asylum. One method is set out therein which is inapplicable to the present situation. However, the same section declares in pertinent part that:

"The above stated method of enforcing payment for the care, support, maintenance and expenses of mentally ill persons in the New Mexico Insane Asylum shall not be exclusive and shall in no way affect the right of directors of the New Mexico Insane Asylum to enforce such payment by any other appropriate remedy."

It is our opinion that the procedure of accepting payment from the Navajo Tribal Council and assigning unpaid notes to the Council would be another "appropriate remedy" within the meaning of the above statute. We do not feel that the Commission could properly give an unqualified endorsement to each of the notes and it is our impression that the Navajo Tribal Council would be satisfied with a simple assignment of the notes. We would, therefore, recommend that each of the notes be endorsed in the following manner:

"Pay to the order of the Treasurer of the Navajo Tribal Council \$ ____, without recourse

Executive Director"

Of course all notes should show any payments which were made thereon by the individual prior to payment of the balance by the Navajo Tribal Council.

By: F. Harlan Flint

Assistant Attorney General