

Opinion No. 63-17

March 8, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Manuel A. Armijo Director New Mexico Veterans' Service Commission Santa Fe, New Mexico

QUESTION

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May the Veterans' Service Commission avoid the necessity of having its staff officers become notaries, and pursuant to Section 74-1-8 New Mexico Statutes Annotated, 1953 Compilation, have such officers utilize a Commission Seal and take oaths, acknowledgments, and attest documents processed by the Commission?

CONCLUSION

Yes.

OPINION

{*38} ANALYSIS

Under the provisions of Section 74-1-8, N.M.S.A., 1953 Compilation, the directors of Veterans' affairs and the executive assistants of the New Mexico Veterans' Service Commission are empowered to administer oaths, affirmations and execute attestations and certificates.

This statute contemplates that the director and "executive assistants" of the commission may on behalf of the commission administer oaths, affirmations, and execute attestations and certificates "**in all cases where magistrates and other officers within the state authorized to administer oaths may do so**" under law.

Section 43-1-3, N.M.S.A., 1953 Compilation, designates other officers who may administer oaths and affirmations, and Section 43-1-4, N.M.S.A., 1953 Compilation, specifies the officers who are authorized by statute to take acknowledgments.

We note that Section 74-1-8, N.M.S.A., 1953 Compilation does not expressly provide that officers of the New Mexico Veterans' Service Commission may take "acknowledgments," but the language of the statute states that they may execute attestations and certificates using the seal of the commission. However, we believe the language of the statute is sufficiently comprehensive to authorize such commission officers to take acknowledgments to instruments processed by the commission. As

stated in **Black's Law Dictionary**, Fourth Edition, at page 39, the term "acknowledgment" means a:

"formal declaration before authorized official, by person who executed instrument, that it is his free act and deed. *Jemison v. Howell*, 161 So. 806, 230 Ala. 423, 99 A.L.R., 1511. The **Certificate of the officer** on such instrument that it has been so acknowledged. *Williford v. Davis*, 106 Okl. 208, 232 P. 828, 831." (Emphasis supplied)

The taking of an acknowledgment is, in effect, an authentication of an instrument or a certification of the document, attesting under oath the fact of its execution by the person named. This, we believe, is within the import of the statute.

Thus, we conclude your question should be answered in the affirmative.

By: Thomas A. Donnelly

Assistant Attorney General