

## Opinion No. 64-119

September 14, 1964

**BY:** OPINION OF EARL E. HARTLEY, Attorney General George Richard Schmitt,  
Assistant Attorney General

**TO:** Alex J. Armijo, State Auditor, State Capitol Building, Santa Fe, New Mexico

### QUESTION

#### FACTS

The Otero County Hospital Association leases facilities, (lands, buildings and equipment), known as the Gerald Champion Memorial Hospital from Otero County for one dollar per year and operates the Hospital as a private, nonprofit organization. Audits of the hospital's financial affairs are provided to the Otero County Clerk and the County Commissioners pursuant to the terms of the lease. The hospital receives County Funds each year to assist in its operation. Last year the amount received was \$ 6,500.

#### QUESTION

Is the Gerald Champion Memorial Hospital subject to audit by the Office of the State Auditor?

#### CONCLUSION

Yes.

### OPINION

#### ANALYSIS

Section 4-4-2.2, N.M.S.A., 1953 Compilation (P.S.) provides for the financial affairs of every state agency and every "public body" to be audited annually. The state auditor is designated as being in charge of audits, Section 4-4-2.4, N.M.S.A., 1953 Compilation (P.S.), and in addition to the annual audit can also require a supplemental examination of the financial affairs and transaction of any state agency or "local public body" under the conditions set forth in Section 4-4-2.4, N.M.S.A., 1953 Compilation (P.S.). The phrase, "local public body" is defined in Section 4-4-2.1, N.M.S.A., 1953 Compilation and means:

"Every political subdivision of the state which expends public money from whatever source derived including but not limited to counties, (and) **county institutions.** . . ." (emphasis supplied)

The facts set out above disclose that the hospital expends public (County) moneys. It is also a **county institution** since it is owned by the County and only currently leased to a non-profit County Association which is responsible for the operation of the hospital. Such being the case we conclude that under the statutes set out above the hospital is "a local public body" and is subject to audit by the State Auditor, notwithstanding any contrary audit provisions contained in the lease. The possibility that the lease might contain a contrary procedure as to the annual audit of the hospital is of no consequence. Such a provision if construed to be in conflict with state law, would be void as against public policy and unenforceable.