

Opinion No. 65-223

November 10, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mr. C. R. Sebastian, Director, Department of Finance and Administration, State Capitol Building, Santa Fe, New Mexico

QUESTION

QUESTION

May the New Mexico State Board of Psychologist Examiners, hereinafter called the Board, pay the insurance premiums on Liability Insurance designed to protect its members against any liability incurred while serving in their capacity as Board members?

CONCLUSION

Yes.

OPINION

{*366} ANALYSIS

It is understood that the liability insurance which is the subject of this opinion is to be purchased solely to protect Board members while they perform their official functions. It has been stated that this insurance will not be used to protect Board members for acts performed in their private capacities.

Sections 5-6-19 to 5-6-22, N.M.S.A., 1953 Compilation (P.S.) authorize the purchase of insurance to protect state officials and others for their negligence or carelessness during the course of their service. Section 5-6-19, supra, reads as follows:

"Insurance against liability for damages resulting from negligence -- False arrest or imprisonment -- Payment of {*367} premium. -- The state, county, city, school district, district, state institution, public agency or public corporation may insure its officers, deputies, assistants, agents and employees against any liability for damages for death, personal injury or property damage resulting from their negligence or carelessness during the course of their service or employment as part of the consideration for such employment, and for such damages resulting from the dangerous or defective condition of public property, which condition is allegedly due to their negligence or carelessness. The state, county, city, school district, district, state institution, public agency or public corporation may insure its officers, either duly admitted or through a surplus line law,

against any liability for injuries or damages resulting from false arrest or false imprisonment. The premium for the insurance is a proper charge against the treasury of the state, county, city school district, district, public agency or public corporation."

Clearly the Board members fall within this section. Therefore, it is our opinion that insurance may be purchased for Board members from Board funds for the purposes delineated above.

This opinion does not intend to imply that the this insurance must be purchased. We point out that its purchase is optional.