

Opinion No. 65-93

June 9, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Thomas O. Olson, Special Assistant Attorney General

TO: Mr. Julius H. Darcy, New Mexico Board of Pharmacy, 1025 Hermosa S.E., Albuquerque, New Mexico

QUESTION

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May the Inspector of the New Mexico Board of Pharmacy carry firearms in undertaking his duties in connection with the enforcement of the pharmacy laws of the State of New Mexico?

CONCLUSION

Yes.

OPINION

{*157} ANALYSIS

Section 67-9-25, N.M.S.A., 1953 Compilation provides as follows:

"The inspector appointed by the board of pharmacy for the purpose of administering and enforcing of this act (67-9-18 to 69-9-26) in complying with his duties, is hereby fixed with the power and duties of municipal, county and state law enforcement officers."

Under this section the inspector in the performance of his duties is empowered with all of the powers and duties of law enforcement officers of the State of New Mexico. Within these powers is clearly the right to carry such weapons as the occasion appears to require.

Section 40A-7-2, specifically exempts a peace officer in the lawful discharge of his duties from the offense of carrying a deadly weapon. Furthermore, Section 15-40-12, N.M.S.A., 1953 Compilation specifically authorizes a Sheriff to carry on his person arms. Thus, it is clear that the inspector duly employed and authorized by the Board of Pharmacy of the State of New Mexico may similarly carry arms should the occasion require it.

In this connection however, it should be noted that at all times when carrying such arms the inspector must act lawfully and in good faith for the particular purpose for which he has been appointed. 94 C.J.S., Weapons, Section 9, p. 495.