

Opinion No. 71-122

December 13, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Julia C. Southerland Chief Attorney Health & Social Services Department Post Office Box 2348 Santa Fe, New Mexico 87501

QUESTIONS

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Does the phrase "any laboratory" in Chapter 13, Laws of 1971, refer only to clinical laboratories or include other laboratory facilities?

CONCLUSION

Chapter 13, Laws of 1971, refers to all laboratory facilities in the State.

OPINION

{*188} **ANALYSIS**

The State Department of Public Health (Health and Social Services Department) is charged with the responsibility for the administration of the public health activities of the state. The areas of responsibility are set forth at Section 12-1-4, N.M.S.A., 1953 Comp., and include the following:

"(1) Supervise the health of the people of the state.

"(2) Investigate, control and abate the causes of diseases, especially epidemics, sources of mortality and effects of localities, employment and other conditions of public health.

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"(13) Operate and maintain laboratory facilities for the investigation of public health matters.

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"(19) Establish, maintain and enforce such rules and regulations as may be necessary to carry out the intent of this act and to publish same."

Clearly, under the duties set forth in Section 12-1-4, **supra**, the state department has the authority to establish, maintain and enforce rules and regulations for the control and abatement of the causes of disease. Pursuant to such power the Legislature enacted Section 12-3-5.1, N.M.S.A., 1953 Comp. (1971 P.S.) [Chapter 13, N.M. Laws of 1971], to aid the department in preventing the spread of venereal disease:

"Any laboratory performing a positive laboratory test for venereal disease shall make a report of the test to the health and social services department in the form and manner prescribed by that department. A laboratory shall co-operate with the health and social services department and other health officers in preventing the spread of venereal disease."

By virtue of the above two statutes, the Health and Social Services Department, in its attempt to control and abate venereal disease, has the authority to promulgate and enforce regulations which will assist in such control.

Pursuant to such effort the department may require any and all "laboratories" in the state to comply with its regulations since the use of the term "any laboratory" cannot be said to be limited to "clinical laboratories."

Statutory words are presumed to be used in their ordinary and usual sense unless the contrary is made to appear. **State v. Reinhart**, 79 N.M. 179, 439 P.2d 554 (1968); **Valley Country Club, Inc. v. Mender**, 64 N.M. 59, 323 P.2d 1099 (1958). In the instant case, the word "any" is defined in cases too numerous to mention as meaning "all" or "every" and the use of the word imports no limitation.

"Clinical" is defined in Webster's Third New International Dictionary (1961 Ed.) as "involving or depending on direct observation of the living patient." Where there is no apparent ambiguity, there is no room for construction. **Martinez v. Research Park, Inc.**, 75 N.M. 672, 410 P.2d 200 (1966). {**189*} Such is the case here. Therefore, the requirement in Section 12-3-5.1, **supra**, that "any laboratory" performing a positive laboratory test for venereal disease report the results of the test to the Health and Social Services Department is a requirement to all laboratories in the state, whether they are clinical laboratories or any other type laboratory facility.

By: Leila Andrews

Assistant Attorney General