

Opinion No. 13-1030

May 2, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Dr. W. E. Kaser, Sec'y N. M. Board of Health, East Las Vegas, N. M.

FINES AND FORFEITURES.

Fines collected for violation of law governing the practice of medicine goes to current school fund of the state.

OPINION

{*195} I have received your letter of the 28th ult. and take the earliest possible moment to answer.

You ask if there is any provision in the state constitution interfering with division of fines as prescribed in Section 10 of the law governing the practice of medicine in New Mexico enacted by the 37th Legislative Assembly and amended by the 38th Assembly. The first of these acts is printed as Chapter 34 of the Laws of 1907, and the other is Chapter 99, Laws of 1909, but the amendments in the later act do not affect this question of fines.

By Section 4 of Article XII of the Constitution, it is provided that "All fines and forfeitures collected under general laws," with various other things there enumerated, "shall constitute the current school fund of the state." I see no way to avoid the conclusion that Chapter 34 of the Laws of 1907 is a general law, and that being so the constitutional provision makes any fines collected under that law a part of the current school fund of the state, so that they cannot be used for any other purpose. I do not lose sight of the fact that it might be urged that this is not a general law but a special law applicable to the subject of the practice of medicine in New Mexico, but I do not think such an objection would be well founded. It would be equally applicable to numerous other statutes, creating legislative misdemeanors, if the statutory provisions are violated. For instance, it is a misdemeanor, punishable by fine, to violate certain provisions of Chapter 98 of the Laws of 1907, which relates to weights and measures; or for a sleeping car company to fail to comply with the requirements of Chapter 102 of the laws of the same year, as to making returns for taxation; or to violate the provision of Chapter 4 of the Laws of 1913, upon the subject of unlawfully altering public records and so on with almost all the statutes creating new offenses.