

Opinion No. 31-283

September 25, 1931

BY: E. K. Neumann, Attorney General

TO: Miss Grace Massie, County Clerk, Roswell, New Mexico.

{*110} Your letter of September 22nd has been received.

You refer to Section 79-1301 of the 1929 Compilation, which provides that the justice of the peace in cases mentioned in said section "may contract to decently bury such decedent at a price not exceeding \$ 15.00."

You desire the advice of this office and refer to the period of depression and state that the boards of county commissioners are apprehensive as to what the result will be if an attempt is made to comply literally with this statute.

The wording of the provision is plain and we can give no interpretation other than to state that under this section the county commissioners would have no right to exceed the \$ 15.00 limit.

You also call our attention to Section 130-312 of the 1929 Compilation, which has reference to commitments to the asylum for insane persons.

It is provided in this section that upon the examination of such person, a subpoena shall issue to at least one graduate of medicine requiring such physician to attend such examination, and to certify in accordance with his opinion. It is further provided, that the court shall have the right to make an order granting the reasonable costs and charges of such examination and the transportation of such person to the asylum against the county, and the county commissioners shall then audit and allow same in favor of the several persons entitled thereto.

You wish to know if the quarterly salary budgeted for the county physician intended to cover this expense?

In our opinion this is an entirely different matter from that of the salary of the county health officer, {*111} and provision for payment should be made in some other way.

By Frank H. Patton,

Asst. Attorney General