

Opinion No. 32-452

April 29, 1932

BY: E. K. Neumann, Attorney General

TO: Dr. Charles W. Winchester, Pres., Board of Chiropractic Examiners, Santa Fe, New Mexico.

{*159} In your letter of April 27, 1932, you ask to be informed as to whether chiropractors, licensed to practice their profession in this state, can legally sign death certificates. Sec. 4, Para. 17 of the Regulations of the Bureau of Public Health, governing the reporting of deaths and births, provides that among other things a death certificate shall contain "a certificate as to medical attendance on decedent, fact and time of death, time last seen alive, and the cause of death, with contributory (secondary) cause or complication, if any, and duration of each, and whether attributed to dangerous or unsanitary conditions of employment, together with the signature and address of physician or official making the medical certificate and date of signature."

If no physician attended the decedent during his last illness and he was attended by a chiropractor, it is my opinion that the chiropractor should make this certificate. If he was attended by a doctor of medicine during his last illness, it is my opinion that such doctor should make the medical certificate.

This is a matter which appears to be governed only by the Rules and Regulations of the Bureau of Public Health and the purpose of the medical certificate apparently is to give information concerning the manner and cause of death. If a decedent is attended during his last illness by both a doctor of medicine and a chiropractor, it would seem proper for both of them to sign the medical certificate, or to make separate certificates, if advisable.

Trusting that this gives you the information desired, I am

By: Quincy D. Adams,

Asst. Attorney General

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TO: State Board of Education, Santa Fe, New Mexico.

{*158} It is the understanding of this office that the State Board of Education desires information and advice in connection with its power and duty to approve budget estimates for high schools in this state.

The regulation in this connection is as follows: "The State Superintendent of Public Instruction and the State Board of Education shall approve all high schools for the purpose of budget allowance."

A reasonable construction of this rule is simply to the effect that it makes an approval by the State Board of Education and the State Superintendent of Public Instruction {*159} of the budget estimate for the high school. Under Section 6, Article 12, of the Constitution of New Mexico and under Section 120-101 of the 1929 Compilation and sections 1 and 2 of Chapter 119 of the Session Laws of 1931, it would seem that the above and foregoing rule is a perfectly proper one to be adopted by the State Board of Education under its various powers, and particularly under its power to make rules and regulations having the force and effect of law.

Apparently, it is mandatory upon the State Board of Education and the Superintendent of Public Instruction to approve such budgets in all proper cases and upon any refusal to so approve a budget for a particular high school, it is our opinion that the question should be determined by the proper court procedure which, in all probability, would be by mandamus to compel such approval.

Determination of this question would, of necessity, be based upon a question of fact relative to the right of the high school to exist or continue to exist as such high school.

If the high school as a matter of fact is entitled to such existence, then as a matter of law it would be entitled to the necessary budget allowance and it is seriously doubted if an arbitrary refusal to approve the budget allowance would be sustained.

By Frank H. Patton,

Asst. Attorney General