

Opinion No. 43-4239

February 18, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Dr. J. R. Scott, Director, State Department of Public Health, Santa Fe, New Mexico

You have submitted to this office a copy of regulations, which the State Board has adopted and which will be published immediately in order to become effective. You inquire whether these rules and regulations pertaining to prevention of the spread of venereal diseases come within the powers of the State Board to promulgate and enforce and also whether the state police or other peace officers may legally enforce the provisions of these rules and regulations.

In answer to your first question the State Board under Section 71-103 and 71-104 of the New Mexico 1941 Compilation is given broad powers to adopt rules and regulation as they may think necessary and appropriate for the protection of the public health and the prevention of the spread of communicable diseases. Unquestionably the rules and regulations adopted are within the power of the State Board as set forth in the laws.

Section 71-301 of the New Mexico 1941 Compilation provides that any person violating any state health law, order, rule or regulation of the State Board or the District Health Officer shall be punished by fine of not less than \$ 20.00, nor more than \$ 100.00 or imprisonment in the county jail not less than 20 days, nor more than 90 days or by both such fine and imprisonment. Rules and regulations of the State Department of Public Health, thus are given the same force and effect as laws enacted by the Legislature and the same may be enforced by peace officers.

Under Section 40-207 of the New Mexico 1941 Compilation members of the state police are given the duties of conserving the peace and upon request from any officer or agency of the State charged with the duty of enforcing any law one or more members of the state police may be specifically designated to enforce the provisions of such law.

Since rules and regulations, which you have promulgated, have the same force and effect as laws it is my opinion that members of the state police when called upon by you may legally enforce such rules and regulations to the same effect as other peace officers.

By C. C. McCULLOH,

First Asst. Atty. General