

Opinion No. 43-4292

May 20, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Dr. J. J. Johnson, Sr., Superintendent, New Mexico State Hospital, Las Vegas,
New Mexico

We are in receipt of your letter of May 7, 1943, in which you request an opinion of this office as to whether or not you may parole a patient to her sister **without the** consent of the patient's husband if, in your judgment, it is for the best interest of such patient.

Your attention is directed to Section 37-220, paragraph 3, which is as follows:

"Parole. The superintendent may grant parole to a patient under general conditions prescribed by the directors of the Insane Asylum of New Mexico."

This is the only section in our statutes dealing with the power to parole patients, to the knowledge of the writer. Thus, under this provision, if the regulations prescribed by the directors of the Insane Asylum provide for the release of a patient to such person as the superintendent shall designate, or, if such regulation does not exist, if one is properly promulgated by the directors, the superintendent may then grant a parole to such person as he selects, without reference to their marital status or the consent of any other person.

You will note that the above quoted section provides that a patient may be paroled under general conditions prescribed by the directors. Thus the directors could not make a regulation pertaining to this particular case, but would have to make a regulation broad enough in scope to cover all similar cases.

Trusting that the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General