

Opinion No. 43-4427

December 27, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Honorable John J. Dempsey, Governor of New Mexico, Santa Fe, New Mexico

As you will recall, you requested me the other day over the telephone to look into the question concerning whether or not there had been any ruling of this office which would prohibit the Public Health Department from hiring osteopathic physicians in obstetrical cases.

I am enclosing a copy of Opinion No. 4363, wherein this office held that while the State Board of Public Health may follow its present plan of purchasing obstetrical care only by licensed physicians with the degree of M. D., the Board was, however, informed that they could not interfere in any manner with the individual's right to select the physician or mode of treatment of his choice.

In other words, this opinion held that if a person should request that an osteopath be furnished instead of a M. D., that the State Board of Public Health would have to hire an osteopath. While this office held that the present plan of the State Board of Public Health in purchasing obstetrical care from M. D.s was valid, we, of course, did not pass, which we had no authority to do, upon the question concerning the wisdom of this policy, nor did we directly or indirectly hold that the State Board of Public Health could not change this plan and purchase such services from both M. D.s and osteopaths.

Hoping that the above fully answers your inquiry, I am

By HARRY L. BIGBEE,

Assistant Attorney General