

Opinion No. 45-4696

April 23, 1945

BY: C. C. McCULLOH, Attorney General

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

{*51} We are in receipt of your letter of April 20, 1945 in which you ask whether or not, when a parolled patient from the insane asylum leaves the state, you are authorized to discharge him from your records.

We have no statute specifically authorizing this procedure. However, your attention is called to Section 37-220 of the New Mexico 1941 Compilation which provides in part that you may discharge any patient when in your judgment such discharge will not be detrimental to the public welfare or injurious to the patient. By virtue of this language you are given broad discretion and could clear your records by discharging a patient if you considered that such discharge would {*52} not be detrimental to the public welfare of the state of New Mexico, nor injurious to the patient. In doing this, you could take into consideration the fact that the patient was not within the state of New Mexico so that the public welfare of the state could not be impaired and also the fact that the patient, being outside the jurisdiction of he state, could not be reconfined.

By ROBERT W. WARD,

Asst. Atty. General