

Opinion No. 45-4790

September 17, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Troy Caviness, Secy-Treas. New Mexico Board of Pharmacy Loving, New Mexico

{*132} I have your letter of August 29th, 1945 wherein you request an opinion of this office concerning whether hospitals that handle drugs, narcotics and poisons and fill prescriptions, are subject to the provisions of Chap. 84, Laws of 1945, which provides for the licensing of drug stores.

Section 1 of the above entitled act provides, in part, as follows:

"The board of pharmacy of the State of New Mexico shall require and provide for annual registration of every pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary in this state. * * *"

The title of the act pertains to licensing drug stores.

It was held in the case of Carroll Perfumeries vs. State (Ind.) 7 N. E. (2d) 970, 972, that a pharmacy or apothecary pertains to a place where drugs are sold, and both a pharmacy and an apothecary refer to a drug store.

The Supreme Court of Oklahoma held in the case of Mobley vs. Brown, 2 P. (2d) 1034, that a drug store refers to a retail store, unless the statute otherwise clearly indicates a broader interpretation.

Hospitals, as a general rule, handle various drugs under the direction of qualified persons, solely for the benefit of the patients in such hospitals who are all under the direct care of various doctors. The drugs handled in hospitals are for the benefit of the patients therein and are not offered for sale to the general public, but are dispensaries, as indicated above.

In view of the foregoing, it is my opinion that hospitals are not required to obtain a license under Chap. 84, Laws of 1945.

By HARRY L. BIGBEE,

Asst. Atty. General