

# CHAPTER 23

## STATE HEALTH INSTITUTIONS

### ARTICLE 1

#### GENERAL PROVISIONS

##### **23-1-1. [Rules and regulations; equipment; employees.]**

The boards of each of said institutions shall have power, and it shall be their duty, to pass and enforce bylaws, rules and regulations for the government of such institutions, for the proper carrying out of their several objects, not in conflict with the laws of the state of New Mexico, or any act of congress, and to provide all proper and necessary books, apparatus, instruments, medicines, clothing, food and supplies, and other materials or things necessary for the proper conduct of the several institutions hereinbefore named and the care, support and protection of the inmates thereof when necessary; also to employ all teachers, physicians, wardens or superintendents and employees, and to prescribe the duties and compensation of each, and they shall have full power to remove or discharge any officer or employee appointed or selected by them in any of such institutions, when in their judgment the interest of such institution shall require.

**History:** Laws 1903, ch. 2, § 7; Code 1915, § 5110; C.S. 1929, § 130-607; 1941 Comp., § 5-102; 1953 Comp., § 13-3-2.

**Cross-references.** - As to exemptions from income tax, see 7-2-4 NMSA 1978.

As to facilities for care and treatment of geriatric, mentally retarded and tubercular patients at former Walker air force base, see 21-15-1 to 21-15-3 NMSA 1978.

**Compiler's note.** - This section and 13-3-1, 1953 Comp., now compiled as 21-5-2 NMSA 1978, originally were enacted by Laws 1903, ch. 2, which created the New Mexico asylum for the deaf and dumb, the New Mexico reform school, the New Mexico institute for the blind and the miners' hospital of New Mexico. The government of such institutions is now controlled by the constitution of New Mexico and supplementary laws. This section may be superseded by 21-6-1 NMSA 1978, relating to powers and authority of the board of regents of the New Mexico school for the deaf, 21-5-2 NMSA 1978, relating to the management of the New Mexico school for the visually handicapped and by 23-3-2 to 23-3-4 NMSA 1978, relating to the board of trustees of the miners' hospital.

**Meaning of "said institutions".** - Laws 1903, ch. 2, §§ 1 to 4, refer to the New Mexico asylum for the deaf and dumb, the New Mexico reform school, the New Mexico institute for the blind and the miners' hospital of New Mexico.

**Power to adopt rules and regulations.** - By virtue of this section, the board of managers of the miners' hospital is empowered to adopt reasonable rules and regulations for the protection of the inmates, and to expel patients who refuse to comply with the regulations. 1917-18 Op. Att'y Gen. 35.

It is beyond authority of board of trustees of New Mexico reform school to make regulations by which boys committed to the school can be released on parole on the board's order. 1909-12 Op. Att'y Gen. 193.

**Liability of board for negligence.** - While the members of the board of the New Mexico school for the deaf and the institution cannot be held liable for negligence in the promulgation of rules and regulations and ensuing misfortunes and accidents, if they make negligent or malicious determinations in individual cases and accidents result which are the sole, direct and proximate results of such determinations, it is possible that they may be held personally liable. The circumstances of each case will be the basis for ascertaining whether there has been negligence. 1959-60 Op. Att'y Gen. No. 60-221.

**Miners' hospital board has power to remove or discharge any employee,** but it must exercise this power in accordance with the rules promulgated by the personnel board. 1964 Op. Att'y Gen. No. 64-130.

**Including physician.** - The miners' hospital board may dismiss a physician in their employment for not abiding by the rules and regulations of the hospital board, but the physician has the right to appeal the dismissal to the personnel board. 1964 Op. Att'y Gen. No. 64-130.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Denial by hospital of staff privileges or referrals to physician or other health care practitioner as violation of Sherman Act (15 USCS § 1 et seq.), 89 A.L.R. Fed. 419.

## **23-1-2. [Sale or lease of lands; disposition of proceeds.]**

The New Mexico college of agriculture and mechanic arts [New Mexico state university] and all other state, educational and charitable institutions, in New Mexico, are authorized to expend the funds derived from the sale and lease of their lands, or so much thereof as may be necessary which are placed to the credit of the respective institutions, for buildings, equipment and other permanent improvements.

**History:** Laws 1905, ch. 72, § 1; Code 1915, § 5153; C.S. 1929, § 130-1303; 1941 Comp., § 5-103; 1953 Comp., § 13-3-3.

**Cross-references.** - For management and purposes of normal schools and their successors, see N.M. Const., art. XII, § 13 and 21-3-4 NMSA 1978 et seq.

For northern New Mexico state school, see N.M. Const., art. XII, § 13 and 21-4-1 NMSA 1978.

For New Mexico school for the visually handicapped, see N.M. Const., art. XII, § 13 and 21-5-2 NMSA 1978.

For New Mexico school for the deaf, see N.M. Const., art. XII, § 13 and 21-6-1 NMSA 1978.

For university of New Mexico, see N.M. Const., art. XII, § 13 and 21-7-3 NMSA 1978 et seq.

For New Mexico state university, see N.M. Const., art. XII, § 13, 21-8-4, 21-8-5 and 21-8-8 NMSA 1978.

For New Mexico institute of mining and technology, see N.M. Const., art. XII, § 13 and 21-11-4 NMSA 1978 et seq.

For New Mexico military institute, see N.M. Const., art. XII, § 13 and 21-12-1 NMSA 1978 et seq.

For penitentiary, see N.M. Const., art. XIV, § 1 and 33-2-1 NMSA 1978 et seq.

For miners' hospital, see N.M. Const., art. XIV, §§ 1, 3 and 23-3-1 to 23-3-4 NMSA 1978.

For Las Vegas medical center (formerly New Mexico state hospital and meadows home for the aged), see N.M. Const., art. XIV, §§ 1, 3, and 23-1-12 NMSA 1978 et seq. and 23-5-1 NMSA 1978.

For Los Lunas medical center, see N.M. Const., art. XIV, §§ 1, 3 and 23-1-12 NMSA 1978 et seq.

For New Mexico boys' school at Springer, see N.M. Const., art. XIV, §§ 1, 3.

For Carrie Tingley crippled children's hospital, see N.M. Const., art. XIV, §§ 1, 3 and 23-2-2 NMSA 1978 et seq.

For girls' welfare home, see N.M. Const., art. XIV, §§ 1, 3.

For Fort Bayard medical center, see 23-1-12 NMSA 1978.

**Girls' welfare home is state institution.** 1959-60 Op. Att'y Gen. No. 60-187.

**It may expend proceeds of sale of property to acquire a new dormitory.** This may be done by paying cash to the contractor, or by assigning the payments due under a

conditional sales contract or mortgage. Furthermore, the girls' welfare home may convey the property of the home to a contractor, in return for which the contractor will build the home a new dormitory. 1959-60 Op. Att'y Gen. No. 60-187.

**As it may sell property.** - A sale of property by the girls' welfare home falls squarely within the provisions of this section. 1959-60 Op. Att'y Gen. No. 60-187.

**And proceeds are placed in credit.** - Proceeds of the sale of lands by a state institution are placed to the credit of the selling institution. 1959-60 Op. Att'y Gen. No. 60-187.

**Drawing from permanent fund authorized.** - Regents of the university of New Mexico are authorized to draw upon any money in the permanent fund to pay for land and improvements. 1912-13 Op. Att'y Gen. 296.

**As well as from income fund.** - The capitol custodian committee is authorized to draw money from the income fund from lands donated for public buildings. 1912-13 Op. Att'y Gen. 320.

**Restrictions on the appropriation of the miners' hospital trust fund revenues** contained in the 1988 appropriations bill were consistent with the rule that legislative conditions on appropriations be limited to the fiscal period covered by the bill and did not conflict with this section. 1989 Op. Att'y Gen. No. 89-30.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 14 C.J.S. Charities § 34; 14A C.J.S. Colleges and Universities § 11.

### **23-1-3. [Boards to disburse funds; reports.]**

The board of regents or other boards of control of said institutions are hereby authorized to expend said moneys as herein provided for said purposes and said boards shall make a full and complete report of the expenditures which they may make under the provisions of this act [23-1-2, 23-1-3 NMSA 1978], giving amount and purpose for which expended, to the governor of the state of New Mexico.

**History:** Laws 1905, ch. 72, § 2; Code 1915, § 5154; C.S. 1929, § 130-1304; 1941 Comp., § 5-104; 1953 Comp., § 13-3-4.

**Cross-references.** - For public finances generally, see Chapter 6 NMSA 1978.

For finances of state educational institutions, see 6-17-1 NMSA 1978 et seq.

### **23-1-4. [Annual statement of receipts and disbursements.]**

It is hereby made the duty of the several boards of managers of state charitable or other institutions which receive any money from the state treasury, at the end of each fiscal

year to make out an itemized and detailed statement of all receipts and disbursements of such institution up to and including the last day of said fiscal year, which shall be sworn to as correct by the secretary, treasurer or other accounting officer of such institution who draws and receives the state funds and shall be transmitted to the governor of the state within the first thirty days of the new fiscal year; and any failure on the part of any person or officer to perform the duties herein specified shall subject such person to removal from his position and in case he is a bonded officer it shall be considered as a breach of his bond and be a misdemeanor in office, for which he may be fined in any sum not exceeding five hundred [dollars] [(\$500)] nor less than one hundred dollars [(\$100)], which shall be recovered from him and the sureties on his bond as a penalty.

**History:** Laws 1901, ch. 98, § 3; Code 1915, § 5157; C.S. 1929, § 130-1307; 1941 Comp., § 5-108; 1953 Comp., § 13-3-8.

### **23-1-5. [Indebtedness in excess of appropriations prohibited; exceptions.]**

Every officer, board, body or agency or any member thereof, empowered to expend any public money or to direct the expenditure thereof, or to contract indebtedness against or in view of specific appropriations, is hereby prohibited [prohibited] from making any contract, incurring any expense, or contracting any liability against this state, or any public fund thereof, which shall make, tend to make or contemplate any excess of expenditure beyond the terms of the laws authorizing expenditures by them, or either of them, or under their direction; and it shall be unlawful for any trustee, superintendent, warden or other officer of any of the educational, penal, charitable or other institutions of this state, who, under the laws, has authority or may be vested with authority to purchase supplies, employ servants or assistants, contract indebtedness, or to do any act contemplating the expenditure of public moneys, to contract any indebtedness in behalf of such institutions or ostensibly against the state on account of such institutions in excess of the appropriations made for the maintenance and support thereof; but in respect to the penitentiary, the asylum for the insane, the reform school, the institute for the blind, the miners' hospital and the deaf and dumb asylum, if the specific appropriations therefor shall have become exhausted, food and clothing for the inmates thereof may be purchased on the credit of the state.

**History:** Laws 1912, ch. 69, § 1; Code 1915, § 5158; C.S. 1929, § 130-1308; 1941 Comp., § 5-109; 1953 Comp., § 13-3-9.

**Generally.** - Officers of educational institutions may incur indebtedness if not in excess of the appropriations made. 1915-16 Op. Att'y Gen. 30.

**State school may borrow money** so long as it keeps its indebtedness within the appropriations. 1915-16 Op. Att'y Gen. 376.

**To provide student quarters.** - Regents of university of New Mexico may borrow money, within the limits of the appropriation, to provide quarters for additional students. 1912-13 Op. Att'y Gen. 275.

**However, reform school is not so authorized** to borrow money. 1912-13 Op. Att'y Gen. 135.

**Authority to lease and purchase property.** - The board of regents of the normal university (New Mexico Highlands university) has authority to lease and purchase property for school purposes, if kept within the appropriation provided by the legislature. 1919-20 Op. Att'y Gen. 26.

**And to choose personnel for more than year.** - Board of regents of the school of mines may elect or appoint a president and instructors for longer terms than one year. 1915-16 Op. Att'y Gen. 332.

**Miners' hospital trustees have no authority to spend in excess what appropriated.** - Except to the extent indicated in this section, the miners' hospital board of trustees has no authority to spend amounts in excess of what is properly appropriated for the miners' hospital. Nothing in the statute, however, prevents the board from seeking deficit supplement legislation to cover shortfalls, nor is the board denied the recourse of resorting to private, nonstate funds. 1989 Op. Att'y Gen. No. 89-30.

### **23-1-6. [Emergency food and clothing; resolution required; approval by governor.]**

Before such food and clothing shall be purchased, in case of emergency, as provided in the preceding section [23-1-5 NMSA 1978], there shall be passed a resolution of the governing board of the institutions mentioned, respectively, setting forth the kind, quantity, quality and estimated cost of such supplies, food and clothing, and the necessity therefor, and showing the state of the funds appropriated to such institutions respectively; and a copy thereof certified by the president, chairman or other head of such board, and attested by its secretary or clerk, shall be transmitted to the governor, who, if he approve the same, shall return it to the board from which it came, with his approval thereon endorsed over his signature, and thereupon the purchases specified shall be authorized; but if he disapprove the resolution, he shall so notify the board aforesaid.

**History:** Laws 1912, ch. 69, § 2; Code 1915, § 5159; C.S. 1929, § 130-1309; 1941 Comp., § 5-110; 1953 Comp., § 13-3-10.

### **23-1-7. [Penalty for exceeding appropriations.]**

Any person violating any of the provisions of the two preceding sections [23-1-5, 23-1-6 NMSA 1978] shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by a fine not exceeding \$500 nor less than \$100, or by imprisonment in the

penitentiary for not less than six months nor more than one year, or by both such fine and imprisonment in the discretion of the court trying such cause.

**History:** Laws 1912, ch. 69, § 3; Code 1915, § 5160; C.S. 1929, § 130-1310; 1941 Comp., § 5-111; 1953 Comp., § 13-3-11.

### **23-1-8. [Grand jury to note statutes prohibiting indebtedness exceeding appropriations.]**

It is hereby made the duty of the several district judges to call to the attention of grand jurors the provisions of the three preceding sections [23-1-5 to 23-1-7 NMSA 1978].

**History:** Laws 1912, ch. 69, § 4; Code 1915, § 5161; C.S. 1929, § 130-1311; 1941 Comp., § 5-112; 1953 Comp., § 13-3-12.

### **23-1-9. [Retirement and pensions for employees.]**

That whenever the superintendent, assistant superintendent or any other paid employee of the penitentiary of New Mexico (including as a part thereof the state penitentiary farm in Valencia county), the miners' hospital of New Mexico, at Raton, the New Mexico insane asylum, at Las Vegas, or the New Mexico reform school, at Springer, shall have completed fifteen years of service at any one of said institutions, whether said service shall have been continuous or not, and shall have reached or passed the age of sixty years, such person, if still in the service of said institution, shall have the right, upon his own request, to be retired from active service and to receive for the remainder of his natural life a monthly pension from such institution as he has served for the length of time aforesaid and which retires him in accordance with the terms and provisions of this act [23-1-9 to 23-1-11 NMSA 1978].

**History:** 1941 Comp., § 5-113, enacted by Laws 1941, ch. 69, § 1; 1953 Comp., § 13-3-13.

**Change of names.** - The 1955 amendment to N.M. Const., art. XIV, § 1, changed the name of the New Mexico reform school at Springer to the New Mexico boys' school at Springer and the New Mexico insane asylum at Las Vegas to the New Mexico state hospital at Las Vegas. Laws 1970, ch. 45, § 1, enacts 23-1-13 NMSA 1978, which changes the name of the New Mexico state hospital at Las Vegas and the meadows home for the aged to the Las Vegas medical center.

**Employee not working 15 years not entitled to pension.** - An employee of the hospital who has completed 13 years of service at the miners' hospital is not entitled to a pension from the miners' hospital, even though she is in poor health and cannot continue working to complete 15 years. 1953-54 Op. Att'y Gen. No. 5706.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Forfeiture of pension plan benefits as affected by Employee Retirement Income Security Act (29 USCS §§ 1001 et seq.), 57 A.L.R. Fed. 661.

7 C.J.S. Asylums § 13; 72 C.J.S. Prisons §§ 18, 19; 76 C.J.S. Reformatories § 6.

### **23-1-10. [Right to pension; maximum amount; inclusion in budget.]**

That upon the request of any person entitled to a pension under this act [23-1-9 to 23-1-11 NMSA 1978], it is hereby made the duty of the governing board of such institution to retire said person from active duty and fix the amount of his monthly pension at a sum equal to fifty percent of the compensation actually being received and enjoyed at the date of retirement, but in no event to exceed the sum of \$1,800 per year, and the governing board of such institution shall pay to such person a monthly payment as herein provided for and during the remainder of his natural life, and in the preparation of all budgets touching the running expenses of said institution, provision shall be made in such budget for the payment of the pensions by this act provided.

**History:** 1941 Comp., § 5-114, enacted by Laws 1941, ch. 69, § 2; 1953 Comp., § 13-3-14.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Forfeiture of pension plan benefits as affected by Employee Retirement Income Security Act (29 USCS §§ 1001 et seq.), 57 A.L.R. Fed. 661.

### **23-1-11. [Payment of pensions from excess of income from donated lands only.]**

That all pensions provided by this act [23-1-9 to 23-1-11 NMSA 1978] shall be payable solely out of the income or current fund of the institution paying such pensions derived from the renting of lands of such institution donated by the United States of America, over and above such portion of such current income as may be necessary to service any bond issue of such institution heretofore lawfully issued, and no part of such pensions shall be paid out of the permanent fund of such institution, nor out of funds raised by general taxation.

**History:** 1941 Comp., § 5-115, enacted by Laws 1941, ch. 69, § 3; 1953 Comp., § 13-3-15.

### **23-1-12. Transfer of existing institutions.**

A. All property, appropriations and cash balances now held in the name of the following institutional facilities, or by any state agency for the indicated facilities, the use of which is not limited by the terms of any trust or constitutional provision, are transferred to the health and environment department:



- (1) Las Vegas medical center;
- (2) Los Lunas medical center;
- (3) Fort Bayard medical center;
- (4) Villa Solano;
- (5) Fort Stanton hospital;
- (6) Turquoise lodge; and
- (7) Pecos lodge.

B. The secretary of health and environment may delegate the authority for the supervision and operation of any of the institutional facilities transferred under Subsection A of this section to any of the organizational units within the health and environment department.

**History:** 1953 Comp., § 13-12-1, enacted by Laws 1977, ch. 253, § 42.

**Cross-references.** - For community mental health services, see 23-7-1 NMSA 1978.

**Repeals and reenactments.** - Laws 1977, ch. 253, § 42, repeals 13-12-1, 1953 Comp., which designated the short title of the repealed Hospitals and Institutions Department Act, and enacts the above section.

**Secretary of health and environment.** - Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the health and environment department, referred to in this section, and enacts a new 9-7-4 NMSA 1978, creating the department of health. Laws 1991, ch. 25, § 4 creates the department of environment. Under 9-7-5 NMSA 1978 the administrative head of the department of health is the secretary of health. Under 9-7A-5 NMSA 1978 the administrative head of the department of environment is the secretary of environment.

### **23-1-13. New medical center names.**

A. Henceforth the New Mexico state hospital at Las Vegas and the meadows home for the aged will be known as the "Las Vegas medical center." This center may offer general hospital care, extended care, intermediate care, skilled nursing services and outpatient care, as well as services now required by statute.

B. Henceforth the Los Lunas hospital and training school at Los Lunas will be known as the "Los Lunas medical center." This center may offer general hospital care, extended care, skilled nursing services and outpatient care, as well as services now required by statute.

C. Henceforth the Fort Bayard hospital will be known as the "Fort Bayard medical center." This center may offer general hospital care, extended care, skilled nursing services and outpatient care, as well as services now required by statute.

**History:** 1953 Comp., § 13-12-1.2, enacted by Laws 1970, ch. 45, § 1.

## **ARTICLE 2**

### **CARRIE TINGLEY CRIPPLED CHILDREN'S HOSPITAL**

#### **23-2-1. Carrie Tingley crippled children's hospital program created.**

In order to provide care and treatment for the crippled children of New Mexico in need of long-term inpatient or outpatient care, there is hereby created the Carrie Tingley crippled children's hospital program to be administered by the board of regents of the university of New Mexico. For the purposes of this section, "crippled children" means children whose primary diagnosis is a chronic impairment which may require long-term inpatient or outpatient medical or surgical care or treatment.

**History:** Laws 1937, ch. 13, § 1; 1941 Comp., § 5-301; 1953 Comp., § 13-5-1; Laws 1981, ch. 275, § 1; 1989, ch. 247, § 1.

**Cross-references.** - For hospital as state institution, see N.M. Const., art. XIV, § 1.

As to licensure of health facilities under Public Health Act, see 24-1-5 NMSA 1978.

As to Medical Malpractice Act, see 41-5-1 NMSA 1978 et seq.

**The 1989 amendment,** effective June 16, 1989, inserted "program" in the catchline and deleted "body corporate" at the end of the catchline; inserted "in need of long-term inpatient or outpatient care" in the first sentence and substituted all of the language of that sentence following "hospital" for "to consist of a board of directors who with their successors in office shall constitute a body corporate, under such name and style"; added the second sentence; and deleted former Subsections A and B, relating to powers and duties of board of directors.

**Temporary provisions.** - Laws 1989, ch. 247, § 6, effective June 16, 1989, provides for the transfer of employees of the Carrie Tingley crippled children's hospital to the university of New Mexico, with provisions for coverage by the Educational Retirement Act.

Laws 1989, ch. 247, § 7, effective June 16, 1989, provides for the transfer of all property held by the hospital or the hospital fund to the board of regents of the university.

**Legislative intent.** - In enacting this section, the legislature plainly intended that Carrie Tingley crippled children's hospital be located in the buildings erected at Truth or

Consequences. The location of Carrie Tingley cannot be changed without a change in this section. 1980 Op. Att'y Gen. No. 80-16 (rendered prior to 1981 amendment).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 40 Am. Jur. 2d Hospitals and Asylums §§ 1 to 13.

41 C.J.S. Hospitals § 6.

### **23-2-2. Advisory committee.**

The board of regents of the university of New Mexico shall appoint and consult with an advisory group consisting of at least three parents of children with a chronic impairment and two health professionals.

**History:** Laws 1937, ch. 13, § 2; 1941 Comp., § 5-302; Laws 1951, ch. 127, § 1; 1953 Comp., § 13-5-2; Laws 1955, ch. 126, § 1; 1987, ch. 199, § 1; 1989, ch. 247, § 2.

**The 1987 amendment**, effective June 19, 1987, deleted "appointment" at the end of the catchline, added the third sentence, and rewrote the first two sentences.

**The 1989 amendment**, effective June 16, 1989, substituted the present catchline for "Board of directors; terms", and substituted the present provisions for: "The board of directors of Carrie Tingley crippled children's hospital shall consist of the members of the board of regents of the university of New Mexico. The term of office of each member of the board shall be coterminous with his term as a member of the board of regents of the university of New Mexico. The board shall appoint and consult with an advisory group consisting of at least three parents of children with a chronic impairment and two lay-persons with experience in delivery of health services to children."

**Salary not authorized.** - Public officers are not entitled to a salary unless it is authorized by statute, and there is no such authorization for the directors of Carrie Tingley crippled children's hospital in Laws 1937, ch. 13. 1937-38 Op. Att'y Gen. 266.

### **23-2-3. Powers and duties.**

The board of regents of the university of New Mexico shall manage, control and govern the Carrie Tingley crippled children's hospital program under rules, regulations or other directives and policies as the board of regents may from time to time prescribe. The board of regents of the university of New Mexico has the full power to enter into contracts or other agreements as it deems necessary or desirable for the operation and management of the Carrie Tingley crippled children's hospital program.

**History:** 1978 Comp., § 23-2-3, enacted by Laws 1989, ch. 247, § 3.

**Repeals and reenactments.** - Laws 1989, ch. 247, § 3 repeals 23-2-3 NMSA 1978, as enacted by Laws 1937, ch. 13, § 3, relating to powers and duties, and enacts the above

section, effective June 16, 1989. For provisions of former section, see 1987 Replacement Pamphlet.

### **23-2-4 to 23-2-6. Repealed.**

#### **ANNOTATIONS**

**Repeals.** - Laws 1989, ch. 247, § 8 repeals 23-2-4 to 23-2-6 NMSA 1978, as enacted by Laws 1937, ch. 13, §§ 4 to 6, relating to medical superintendent and other agents and employees, departments and services, and admittance to hospital, effective June 16, 1989. For provisions of former sections, see 1987 Replacement Pamphlet.

### **23-2-7. Carrie Tingley crippled children's hospital fund and program funds.**

There is created the "Carrie Tingley crippled children's hospital program fund". All money now held by the Carrie Tingley crippled children's hospital fund or payable to that fund in the future for the purpose of operating and managing the Carrie Tingley crippled children's hospital program shall be paid over to the board of regents of the university of New Mexico to be used for the purpose of operating the Carrie Tingley crippled children's hospital program. All money from patient care and treatment rendered by the Carrie Tingley crippled children's hospital program, now held or received in the future, shall be paid over to the board of regents of the university of New Mexico to be used for the purpose of operating the Carrie Tingley crippled children's hospital program.

**History:** Laws 1937, ch. 13, § 7; 1941 Comp., § 5-307; 1953 Comp., § 13-5-7; Laws 1989, ch. 247, § 4.

**The 1989 amendment,** effective June 16, 1989, added "and program funds" to the catchline, and substituted the present provisions for: "All receipts received from patients for care and treatment shall be paid over to the state treasurer, and held by him to the credit and account of the Carrie Tingley crippled children's hospital fund."

**Lottery for benefit of hospital illegal.** - Lottery to be conducted as part of a fair to be held in state for benefit of crippled children's hospital is illegal. *Harriman Inst. of Social Research, Inc. v. Carrie Tingley Crippled Children's Hosp.*, 43 N.M. 1, 84 P.2d 1088 (1938).

### **23-2-8. Repealed.**

#### **ANNOTATIONS**

**Repeals.** - Laws 1989, ch. 247, § 8 repeals 23-2-8 NMSA 1978, as amended by Laws 1981, ch. 275, § 2, relating to an appropriation for the hospital maintenance fund,

effective June 16, 1989. For provisions of former section, see 1987 Replacement Pamphlet.

### **23-2-9. Receipts from public lands where no beneficiary is designated.**

The commissioner of public lands and the state treasurer are authorized to transfer to the board of regents of the university of New Mexico for the credit of the Carrie Tingley crippled children's hospital program all receipts now held or which may hereafter be received from any lands acquired by the state by purchase and placed under the state land office where no beneficiary is specified, including Conchas dam lands.

**History:** 1941 Comp., § 8-115a; Laws 1953, ch. 33, § 1; 1953 Comp., § 13-5-9; Laws 1989, ch. 247, § 5.

**The 1989 amendment**, effective June 16, 1989, inserted "board of regents of the university of New Mexico for the", substituted "crippled children's hospital program" for "hospital", and made minor stylistic changes.

## **ARTICLE 3 MINERS' HOSPITAL**

### **23-3-1. Purpose of miners' hospital; admission and maintenance of patients.**

The miners' hospital of New Mexico is intended and meant to be for the free treatment and care of resident miners of the state of New Mexico, who may become sick or injured in the line of their occupation; and all lodging and medical care shall be free of charge, as shall all other expenses incurred by the patient, except in cases where such patient is possessed of property and means sufficient to enable him to pay the actual costs and charges incurred by his attendance at such hospital, in which case the governing authority may make provision for his being charged and paying such expenses incurred.

Provided, however, the governing authority may take in other patients for treatment and care, upon the payment of all expenses therefor by the patients, when they may be received and treated without excluding any miners from the hospital.

**History:** Laws 1903, ch. 2, § 9; 1907, ch. 48, § 1; Code 1915, § 5106; C.S. 1929, § 130-501; 1941 Comp., § 5-401; 1953 Comp., § 13-6-1; Laws 1968, ch. 17, § 9.

**Cross-references.** - For confirmation as to state institution, see N.M. Const., art. XIV, § 1.

For control and management as provided by law, see N.M. Const., art. XIV, § 3.

For Medical Malpractice Act, see 41-5-1 NMSA 1978 et seq.

**Appropriations.** - Laws 1989, ch. 315, § 6, effective April 7, 1989, appropriated from the miners' trust fund to the miners' Colfax medical center for expenditure in the seventy-seventh through eightieth fiscal years: (1) \$135,000 for a diagnostic ultrasound machine at the acute care facility, (2) \$75,000 for hospital beds for the acute care facility, (3) \$50,000 to complete a facilities masterplan for miners' Colfax medical center, and (4) \$200,000 for a radiographic fluoroscope machine at the acute care facility; and provides that any unexpended or unencumbered balances remaining at the end of the eightieth fiscal year shall revert to the miners' trust fund.

Laws 1990, ch. 132, § 7, effective March 7, 1990, appropriates \$371,000 from the miners' trust fund to the miners' Colfax medical center for expenditure in the seventy-eighth through eightieth fiscal years for specified purposes and further provides that any unexpended or unencumbered balances remaining at the end of the eightieth fiscal year shall revert to the miners' trust fund.

Laws 1991, ch. 214, § 1, effective April 4, 1991, appropriates \$262,500 from the miners' trust fund to the Miners' Colfax medical center in Colfax county for the seventy-ninth through eighty-first fiscal years for certain capital projects and provides that any unexpended or unencumbered balance remaining at the end of the eighty-first fiscal year shall revert to the miners' trust fund.

**Compiler's note.** - Laws 1903, ch. 2, § 4, as amended by Laws 1986, ch. 12, § 1, provides for an institution to be called the Miners' hospital of New Mexico, which institution is located at the city of Raton in Colfax County, New Mexico.

**Ownership of facility and equipment by state.** - Any facility and/or equipment provided for in the establishment of the miners' hospital is an integral part of that state institution and is fully owned by the state of New Mexico. 1957-58 Op. Att'y Gen. No. 57-209.

**Right of miner to be admitted.** - If a person is a miner at the time he seeks admission to the hospital, he meets the requirement of this section. 1959-60 Op. Att'y Gen. No. 60-127.

**Miner who has discontinued his occupation as miner** and who becomes sick or infirm, but not in line of his occupation, is not entitled to admission to miners' hospital free of charge. 1915-16 Op. Att'y Gen. 38.

**Or be treated as outpatient.** - Resident miners who meet other statutory requirements may be medically treated as outpatients free of charge. 1961-62 Op. Att'y Gen. No. 62-119.

**Nonminers treated at the Miners' Hospital** must pay all expenses for treatment and care in accordance with the applicable laws including fixed costs. 1988 Op. Att'y Gen. No. 88-21.

**When condition temporary.** - Resident miners who meet other statutory requirements may be admitted, treated and cared for free of charge when their condition is temporary rather than permanent or chronic. 1961-62 Op. Att'y Gen. No. 62-119.

**Miners' hospital may not sell or dispense medicine and drugs** while operating as a public institution which is not licensed as required under the provision of 61-11-1 NMSA 1978 et seq. 1957-58 Op. Att'y Gen. No. 57-254.

**Nor at doctors' request.** - The miners' hospital may not sell drugs or medical supplies to people who are not admitted to the hospital as inpatients or outpatients when doctors ask that such be sold to them. 1957-58 Op. Att'y Gen. No. 57-254.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 40 Am. Jur. 2d Hospitals and Asylums §§ 1 to 13.

41 C.J.S. Hospitals § 6.

### **23-3-2. Board created; terms; composition; compensation.**

A. There is created the "board of trustees of the miners' hospital of New Mexico". The board shall consist of five members appointed by the governor with the advice and consent of the senate. One member of the board shall be a licensed physician, two members shall be miners or their representatives and two members shall be representatives of the general public. Members of the board shall be appointed for staggered terms of five years each, except that the initial board shall be composed of one member appointed for a term of one year, one member appointed for a term of two years, one member appointed for a term of three years, one member appointed for a term of four years and one member appointed for a term of five years.

B. A majority of the board shall constitute a quorum for doing business.

C. Members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

**History:** 1953 Comp., § 13-6-2, enacted by Laws 1975, ch. 19, § 1.

**Members of legislature may not serve.** - Members of the legislature may not serve on the following boards and commissions: (1) livestock board; (2) state police board; (3) capitol buildings improvement commission (now department of finance and administration); (4) board of regents - El Rito normal; (5) state fair commission; (6) miners' hospital of New Mexico. 1959-60 Op. Att'y Gen. No. 59-140.

### **23-3-3. Powers and duties.**

The board is a body corporate under the name of the board of trustees of the miners' hospital of New Mexico and has the power to sue and be sued, contract, acquire land by purchase or donation and to do all other things necessary to carry out its duties. The board shall supervise and control all functions of the operation and management of the miners' hospital of New Mexico.

**History:** 1953 Comp., § 13-6-3, enacted by Laws 1975, ch. 19, § 2.

**Restrictions on the appropriation of the miner's hospital trust fund revenues** contained in the 1988 appropriations bill were consistent with the rule that legislative conditions on appropriations be limited to the fiscal period covered by the bill and did not conflict with this section. 1989 Op. Att'y Gen. No. 89-30.

**Miners' hospital board has power to remove or discharge any employee,** but it must exercise this power in accordance with the rules promulgated by the personnel board. 1964 Op. Att'y Gen. No. 64-130.

**Including physician.** - The miners' hospital board may dismiss a physician in its employment for not abiding by the rules and regulations of the hospital board, but the physician has the right to appeal the dismissal to the personnel board. 1964 Op. Att'y Gen. No. 64-130.

**Authority to rent, lease or sell facilities and equipment.** - The renting or leasing of facilities and equipment would not be outside the authority granted. And further, a sale of laboratory and X-ray equipment owned by the state may be made by the chairman of the board in accordance with the provisions of 13-6-2 NMSA 1978. 1957-58 Op. Att'y Gen. No. 57-209.

**Expansion of facilities.** - The board of trustees for Miners' Hospital can commit the Miners' Trust and the State of New Mexico to acquire Northern Colfax County Hospital and agree to operate a general hospital to provide at least the health care services of the scope and quality appropriate to the needs of the population of Colfax County. The board does not violate the terms of the trust by placing \$1 million in escrow for 75 years for the purchase of the facility that, under one method of valuation, had no significant value at the date of acquisition. 1988 Op. Att'y Gen. No. 88-21.

### **23-3-4. Transfer of funds and property.**

All property, real, personal and mixed, including appropriations and cash balances now held by the hospitals and institutions department for the purpose of operating and managing the miners' hospital of New Mexico is transferred to the board of trustees of the miners' hospital of New Mexico.

**History:** 1953 Comp., § 13-6-4, enacted by Laws 1975, ch. 19, § 3.



# ARTICLE 4

## TRUTH OR CONSEQUENCES VETERANS' CENTER

### 23-4-1. Veterans' center created; advisory board.

A. The "Truth or Consequences veterans' center" located near Truth or Consequences, New Mexico, hereinafter referred to as the "center", is declared to be a state home for veterans of service in the armed forces of the United States.

B. There is created the "advisory board of the Truth or Consequences veterans' center". The advisory board shall consist of six members as follows:

- (1) the chairman of the veterans' service commission;
- (2) the director of veteran affairs;
- (3) the administrator of Fort Bayard medical center;
- (4) the administrator of a private nursing home;
- (5) a registered nurse who is employed by a public or private nursing home; and
- (6) a veteran.

C. The governor shall appoint the members designated in Paragraphs (4), (5) and (6) of Subsection B of this section, and their terms shall be for three years each.

D. The center shall be under the control of the health and environment department [department of health].

**History:** 1953 Comp., § 74-7-1, enacted by Laws 1974 (S.S.), ch. 2, § 1; 1983, ch. 329, § 1; 1986, ch. 103, § 1; 1987, ch. 133, § 1; 1991, ch. 24, § 1.

**Bracketed material.** - The bracketed reference in Subsection D was inserted by the compiler, as Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the department of health and environment, and enacts a new 9-7-4 NMSA 1978, creating the department of health. The bracketed material was not enacted by the legislature and is not part of the law.

**The 1986 amendment,** added Subsections B through E and redesignated former Subsection B as present Subsection E, substituting "board of trustees" for "New Mexico veterans' service commission" and "administrator" for "executive director".

**The 1987 amendment,** effective June 19, 1987, in the introductory paragraph of Subsection B, substituted "advisory board" for "board of trustees" in the first sentence,

substituted "advisory board" for "board" and "six members" for "five members" in the second sentence, and added Paragraph (6); deleted former Subsections D and E, providing for selection of a chairman and for the attachment of the board to the veterans' service commission; redesignated former Subsection F as present Subsection D, while substituting therein "health and environment department" for "board of trustees which shall appoint an administrator for the center".

**The 1991 amendment**, effective June 14, 1991, substituted "a veteran" for "the director of the Albuquerque veterans' administration medical center" in Paragraph (6) of Subsection B; and, in Subsection C, inserted "and (6)" and made a related stylistic change.

**Emergency clauses.** - Laws 1986, ch. 103, § 6 makes the act effective immediately. Approved March 5, 1986.

**Temporary provisions.** - Laws 1987, ch. 133, § 5 provides that all existing contracts and agreements in effect as to or from the board of trustees of the Truth or Consequences veterans' center shall be binding and effective on the health and environment department and that all references in law to the board of trustees of the Truth or Consequences veterans' center shall be references to the secretary of health and environment or the health and environment department, as appropriate.

**Appropriations.** - Laws 1987, ch. 1, § 1, effective January 29, 1987, appropriates \$320,000 from the general fund to the board of trustees of the Truth or Consequences veterans' center (secretary of health and environment) for the seventy-fifth fiscal year for the purpose of supplementing the current fiscal year's operating budget and provides that any unexpended or unencumbered balance remaining at the end of the seventy-fifth fiscal year shall revert to the general fund.

## **23-4-2. Repealed.**

### **ANNOTATIONS**

**Repeals.** - Laws 1987, ch. 133, § 6 repeals 23-4-2 NMSA 1978, as amended by Laws 1983, ch. 329, § 2, relating to duties of executive director of the veterans' center, effective June 19, 1987. For provisions of former section, see 1986 cumulative supplement.

## **23-4-3. Eligibility for care; standards.**

A. Occupancy in the center shall be for veterans of service in the armed forces of the United States who have served at least ninety days of active duty pursuant to rules and regulations adopted by the secretary of health and environment consistent with federal guidelines. The following requirements for veterans' admission and continued occupancy shall prevail:

(1) release or separation from the service with an honorable discharge; and

(2) a resident of New Mexico at the time of entering or discharged from the armed forces, or, in the alternative, a resident of New Mexico at the date of application.

B. Additionally, no more than twenty-five percent of the occupancy in the center shall consist of nonveterans from the following categories:

(1) spouses;

(2) surviving spouses; and

(3) gold star parents.

C. Whenever a law, rule or regulation of the veterans' administration of the federal government or any other law permits the state to receive federal funds for the use and benefit of the center, upon acceptance of a veteran of the armed forces of the United States not meeting the requirements of Subsection A of this section, the board of trustees may adopt rules and regulations to authorize such veteran's acceptance.

**History:** 1953 Comp., § 74-7-3, enacted by Laws 1974 (S.S.), ch. 2, § 4; 1983, ch. 329, § 3; 1986, ch. 103, § 2; 1987, ch. 133, § 2.

**The 1986 amendment,** in Subsection A, in the first sentence, inserted "the board of trustees upon the advice of"; and, in Subsection B, substituted "board of trustees" for "New Mexico veterans' service commission" near the end.

**The 1987 amendment,** effective June 19, 1987, rewrote the introductory paragraph of Subsection A, rewrote Subsection A(2), added present Subsection B, and redesignated former Subsection B as present Subsection C.

**Emergency clauses.** - Laws 1986, ch. 103, § 6 makes the act effective immediately. Approved March 5, 1986.

**Secretary of health and environment.** - Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the health and environment department, and enacts a new 9-7-4 NMSA 1978, creating the department of health. Laws 1991, ch. 25, § 4 creates the department of environment. Under 9-7-5 NMSA 1978 the administrative head of the department of health is the secretary of health. Under 9-7A-5 NMSA 1978 the administrative head of the department of environment is the secretary of environment.

**23-4-4. Repealed.**

## ANNOTATIONS

**Repeals.** - Laws 1987, ch. 133, § 6 repeals 23-4-4 NMSA 1978, as amended by Laws 1986, ch. 103, § 3, relating to payment of charges at the veterans' center, effective June 19, 1987. For provisions of former section, see 1986 cumulative supplement.

### **23-4-4.1. Donations; gifts; bequests.**

The center may accept donations, gifts and bequests of land, money or other things of value for the purposes of Sections 23-4-1 through 23-4-4 NMSA 1978. The title to such lands, together with all improvements thereon, shall vest in the state, and the deeds thereto, all insurance policies, certificates of water rights and other evidences of ownership of the land or improvements of the center shall be filed as provided by law. Except as provided by the conditions of such donations, gifts and bequests, all donations and gifts of money shall be deposited by law.

**History:** 1978 Comp., § 23-4-4.1, enacted by Laws 1983, ch. 329, § 5; 1986, ch. 103, § 4; 1987, ch. 133, § 3.

**The 1986 amendment** substituted "board of trustees" for "New Mexico veterans' service commission" in the first sentence.

**The 1987 amendment**, effective June 19, 1987, substituted "center" for "board of trustees" in the first sentence.

**Emergency clauses.** - Laws 1986, ch. 103, § 6 makes the act effective immediately. Approved March 5, 1986.

**Compiler's note.** - Section 23-4-4 NMSA 1978, referred to in the first sentence, was repealed in 1987.

### **23-4-5, 23-4-6. Repealed.**

#### **ANNOTATIONS**

**Repeals.** - Laws 1983, ch. 329, § 9, repeals 23-4-5 NMSA 1978, as enacted by Laws 1974 (S.S.), ch. 2, § 7, relating to donations and their title in state, and 23-4-6 NMSA 1978, as enacted by Laws 1974 (S.S.), ch. 2, § 8, relating to acquisition of lands and their title in state, effective April 8, 1983. For provisions of former sections, see 1978 original pamphlet. For present provisions, see 23-4-4.1 NMSA 1978.

### **23-4-7. Future transfer of lands; restrictions.**

A. The secretary of health and environment shall designate not more than thirty acres of land immediately surrounding the old Carrie Tingley crippled children's hospital building, including the support buildings and three adjoining houses, which may not be designated as surplus property by the department of finance and administration pursuant to this section. Subsequent to such a designation the department of finance

and administration may determine, after the center has been established, that there exists acreage that is surplus to the needs of the center.

B. The department of finance and administration, with approval of the state board of finance, may transfer a portion of the designated surplus property not to exceed twenty-five acres to the Truth or Consequences school board to be used for a site for construction of a middle school.

C. Subsequent to the official decision of the Truth or Consequences school board to proceed or not to proceed with the construction of a middle school on property adjacent to the center, the department of finance and administration may transfer, with approval of the state board of finance, part or all of the remaining surplus property to the city of Truth or Consequences for use in future economic development projects.

D. All transfers of land provided for in this section shall be subject to the following conditions:

(1) the governor, or his designee, shall approve any plans for development of any part of the original site before commencement of any construction under such plans;

(2) if the Truth or Consequences school board has not developed a master plan for use of any property transferred to it by January 1, 1987, or has not substantially initiated this plan by January 1, 1993, the surplus property transferred to that school board shall revert to the state;

(3) if the city of Truth or Consequences has not developed a master plan for use of any property transferred to it by January 1, 1987, or has not substantially initiated this plan by January 1, 1993, the surplus property transferred to that city shall revert to the state;

(4) the department of finance and administration shall not transfer as surplus property either the access to any well already existing on the site or any buildings on the site without the consent of the board of trustees; and

(5) no commitment on any parcel of land at the original site shall be made to the Truth or Consequences school board or to the city of Truth or Consequences until after such time as the center is approved by the legislature.

**History:** Laws 1983, ch. 329, § 7; 1986, ch. 103, § 5; 1987, ch. 133, § 4.

**The 1986 amendment** substituted "board of trustees" for "New Mexico veterans' service commission" in both sentences in Subsection A and in Subsection D(4) and made a minor stylistic change in Subsection D(5).

**The 1987 amendment**, effective June 19, 1987, in Subsection A, substituted "secretary of health and environment" for "board of trustees" in the first sentence and deleted "by the board of trustees" following "designation" in the second sentence. The amendment

also substituted "center" for "Truth or Consequences veterans' center" near the middle of the second sentence of Subsection A and again in Subsection D(5), while substituting "center" for "veterans' center" at the end of the second sentence of Subsection A and again in Subsection C.

**Emergency clauses.** - Laws 1986, ch. 103, § 6 makes the act effective immediately. Approved March 5, 1986.

**Temporary provisions.** - Law 1987, ch. 133, § 5 provides that all existing contracts and agreements in effect as to or from the board of trustees of the Truth or Consequences veterans' center shall be binding and effective on the health and environment department and that all references in law to the board of trustees of the Truth or Consequences veterans' center shall be references to the secretary of health and environment or the health and environment department as appropriate.

**Secretary of health and environment.** - Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the health and environment department, and enacts a new 9-7-4 NMSA 1978, creating the department of health. Laws 1991, ch. 25, § 4 creates the department of environment. Under 9-7-5 NMSA 1978 the administrative head of the department of health is the secretary of health. Under 9-7A-5 NMSA 1978 the administrative head of the department of environment is the secretary of environment.

## **ARTICLE 5**

### **LAS VEGAS MEDICAL CENTER**

#### **23-5-1. Object.**

The object of the New Mexico state hospital [Las Vegas medical center] is the observation, diagnosis, treatment, care and maintenance of the mentally ill.

**History:** 1953 Comp., § 34-1-11.1, enacted by Laws 1959, ch. 360, § 1.

**Cross-references.** - For provisions of the Mental Health and Developmental Disabilities Code, see 43-1-2 to 43-1-23 NMSA 1978.

**Change of name.** - Laws 1970, ch. 45, § 1, enacts 23-1-13 NMSA 1978, which changes the name of the New Mexico state hospital at Las Vegas and the meadows home for the aged to the Las Vegas medical center.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Civil liability for physical measures undertaken in connection with treatment of mentally disordered patient, 8 A.L.R.4th 464.

Hospital's liability for mentally deranged patient's self-inflicted injuries, 36 A.L.R.4th 117.

#### **23-5-2. Repealed.**

## ANNOTATIONS

**Repeals.** - Laws 1981, ch. 72, § 1, repeals 23-5-2 NMSA 1978, as amended by Laws 1968, ch. 17, § 10, relating to the power of the governing authority of the state hospital to create branch facilities. For provisions of former section, see 1978 original pamphlet.

Laws 1981, ch. 72, contains no effective date provision, but was enacted at the session which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

## ARTICLE 6 LOS LUNAS MEDICAL CENTER

**23-6-1, 23-6-2. Repealed.**

## ANNOTATIONS

**Repeals.** - Laws 1978, ch. 211, § 16, repeals 34-3-2 and 34-3-5, 1953 Comp. (23-6-1, 23-6-2 NMSA 1978), relating to establishment, powers and duties of the Los Lunas hospital and training school, effective March 7, 1978.

Laws 1981, ch. 72, § 1, purported to repeal 23-6-2 NMSA 1978, although it had already been repealed by Laws 1978, ch. 211, § 16.

Laws 1981, ch. 72, contains no effective date provision, but was enacted at the session which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

## ARTICLE 7 COMMUNITY MENTAL HEALTH SERVICES

**23-7-1. Pilot demonstration centers established.**

The behavioral health services division of the health and environment department [department of health] shall establish, through a contract with nonprofit entities for the purchase of services, three programs for the delivery of community mental health services. The three programs shall be established at the following locations:

- A. the Bernalillo county medical [mental] health-retardation center at Albuquerque;
- B. the southwest mental health center at Las Cruces;
- C. the Chaves county mental health center at Roswell.

**History:** 1953 Comp., § 34-6-1, enacted by Laws 1973, ch. 378, § 1; 1977, ch. 253, § 47.

**Bracketed material.** - The bracketed reference to the department of health was inserted by the compiler, as Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the department of health and environment, and enacts a new 9-7-4 NMSA 1978, creating the department of health. The bracketed material was not enacted by the legislature and is not part of the law.

### **23-7-2. Short title.**

The provisions of this act [23-7-2 to 23-7-12 NMSA 1978] may be cited as the "Community Mental Health Services Act."

**History:** 1953 Comp., § 34-6-2, enacted by Laws 1975, ch. 104, § 1.

### **23-7-3. Purpose of act.**

The purpose of the Community Mental Health Services Act [23-7-2 to 23-7-12 NMSA 1978] is to develop and organize community mental health services for the entire state, administered jointly by state and local authorities.

**History:** 1953 Comp., § 34-6-3, enacted by Laws 1975, ch. 104, § 2.

### **23-7-4. Definitions.**

A. "department" means the mental health bureau of the behavioral health services division of the health and environment department [department of health];

B. "local authority" means the governing body of a county or of a municipality or such other entity as designated by the department;

C. "board" means the mental health board designated by the local authority, or by the department to administer the community mental health program;

D. "advisory council" means a citizen group formed to advise the mental health board of the program needs of the service area;

E. "service area" means a community service area established by the department for the purpose of providing community mental health services;

F. "state funds" means any funds received by a community from the state;

G. "federal funds" means funds received by a service area from federal sources for mental health facilities or programs, but shall not include funds received by way of fees regardless of source;

H. "client" means a person who, either voluntarily or involuntarily, requires the services of a mental health program;



I. "proportionate representation" means proportionate representation based on the latest decennial United States census figures for the applicable service area; and

J. "local funds" means any funds received from local governing bodies including city or county contributions, district school boards, special tax districts, private hospital funds, universities, churches, private gifts, bequests and devises, both individual and corporate, or funds received from any other local sources.

**History:** 1953 Comp., § 34-6-4, enacted by Laws 1975, ch. 104, § 3; 1977, ch. 253, § 48.

**Bracketed material.** - The bracketed reference to the department of health was inserted by the compiler, as Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the department of health and environment, and enacts a new 9-7-4 NMSA 1978, creating the department of health. The bracketed material was not enacted by the legislature and is not part of the law.

### **23-7-5. Department; powers and duties.**

The department shall:

- A. review and coordinate mental health activities with other state agencies;
- B. delineate the geographic areas within which community mental health programs are to be carried on;
- C. prepare, with the cooperation of all interested parties, a comprehensive statewide plan to fulfill community mental health needs, including a proposed budget and funding formula, including revenue sources; and
- D. implement and contract for programs which are authorized by the legislature.

**History:** 1953 Comp., § 34-6-5, enacted by Laws 1975, ch. 104, § 4.

### **23-7-6. Local mental health authorities created.**

Within the service areas as designated by the department, the local authority, or several local authorities jointly, may petition the department for recognition as a local authority. If a local authority fails to petition within a reasonable time, as set by the department, then the department in consultation with local groups may appoint a local authority.

**History:** 1953 Comp., § 34-6-6, enacted by Laws 1975, ch. 104, § 5.

### **23-7-7. Local authority; powers and duties.**

The local authority shall appoint and remove members of the board for its service area. In appointing the board, the local authority shall appoint residents of the service area to the board, in such a manner to ensure proportional representation of the various local political subdivisions in the service area.

**History:** 1953 Comp., § 34-6-7, enacted by Laws 1975, ch. 104, § 6.

### **23-7-8. Board membership.**

A. A term of membership on the board shall be four years, except that terms of initial members shall be staggered for terms from one to four years as designated by the appointing authority. During his term, a member may be removed by a majority vote of the local authority for neglect of duty or other good cause. Vacancies due to resignations shall be filled by the local authority.

B. Each board shall consist of not less than five nor more than twenty members. Membership of the board shall not consist entirely of members of an existing mental health organization board. The membership shall represent the ethnic, age, sex and economic compositions of the service area, with the selection of the board otherwise to be entirely within the discretion of the local authority.

C. Board members shall serve without pay, but shall be entitled to reimbursement for travel and per diem expenses at the rates fixed by the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

D. No member of the board during his or her term may be an employee of the department, nor a member of the local authority, nor an employee of any community mental health program.

**History:** 1953 Comp., § 34-6-8, enacted by Laws 1975, ch. 104, § 7.

### **23-7-9. Multicounty programs.**

Two or more local authorities within a service area may agree among themselves and with the department to establish a multicounty program.

**History:** 1953 Comp., § 34-6-9, enacted by Laws 1975, ch. 104, § 8.

### **23-7-10. Board relationship to other government units.**

Any state board, state agency or political subdivision of the state is authorized hereby to purchase mental health services from community mental health programs, and to assist and cooperate with such programs in all reasonable ways when such assistance furthers the general welfare of the unit involved.

**History:** 1953 Comp., § 34-6-10, enacted by Laws 1975, ch. 104, § 9.

### **23-7-11. Boards; powers and duties.**

Boards shall:

- A. establish community mental health advisory councils;
- B. review and evaluate mental health needs, services and facilities of its service area;
- C. prepare a service area plan, program goals and a budget based on its evaluation and submit the plan and budget annually to the local authority;
- D. contract for federal, state and local funds; and
- E. receive and disburse such funds.

**History:** 1953 Comp., § 34-6-11, enacted by Laws 1975, ch. 104, § 10.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Validity, construction, and effect of statute requiring consultation with, or approval of, local governmental unit prior to locating group home, halfway house, or similar community residence for the mentally ill, 51 A.L.R.4th 1096.

### **23-7-12. Goals, obligations and duties of community mental health programs.**

- A. Community programs created by the various boards shall develop and provide services and prescribe and administer methods of treatment which reflect leading contemporary thought in the areas of community mental health services.
- B. Community programs shall utilize personnel, both paid and volunteer and other available resources in the service area, in a manner which assures the highest possible level of effectiveness and efficiency in the delivery of mental health services.
- C. Community programs shall strive to reduce the need of inpatient care for the mentally ill through emphasis on outpatient and preventive services.
- D. Community program services shall be available to persons with all types of mental or emotional disorders without regard to age, ethnic background, sex, race, religion or the ability to pay for the services, but each program is authorized to levy charges for its services based on the ability of the client to pay and the value of the services.
- E. All client records shall be confidential.
- F. Community programs shall take into account the ethnic, cultural, social and economic factors of the population in the service area in the development and delivery of mental health services.

G. Community programs, in cooperation with the department, shall develop and implement methods for evaluating the effectiveness and efficiency of their services.

**History:** 1953 Comp., § 34-6-12, enacted by Laws 1975, ch. 104, § 11.

**Cross-references.** - For provisions of the Mental Health and Developmental Disabilities Code, see 43-1-2 to 43-1-23 NMSA 1978.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Halfway houses: housing facilities for former patients of mental hospital as violating zoning restrictions, 100 A.L.R.3d 876.

Immunity of public officer from liability for injuries caused by negligently released individual, 5 A.L.R.4th 773.

## **ARTICLE 8 CHILDREN'S PSYCHIATRIC UNIT AT UNIVERSITY OF NEW MEXICO**

### **23-8-1. Children's psychiatric unit; operational control.**

After the completion of the construction and equipment of the children's psychiatric unit at Albuquerque by the hospitals and institutions department, as provided by Laws 1975, Chapter 140, the operational control of the children's psychiatric unit shall be by the regents of the university of New Mexico.

**History:** 1953 Comp., § 73-25-3.1, enacted by Laws 1977, ch. 174, § 1.

**Cross-references.** - For provisions of the Mental Health and Developmental Disabilities Code, see 43-1-2 to 43-1-23 NMSA 1978.