

Opinion No. 46-4958

October 14, 1946

BY: C. C. McCULLOH, Attorney General

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

{*278} We are in receipt of your letter of October 10, 1946, in which you ask whether the Department of Public Welfare has authority to expend a portion of its funds to construct an isolation ward on state property for children stricken with polio, who are without sufficient funds to pay for specialized treatment.

Section 73-103 (f) of the 1941 Compilation vests in the New Mexico Department of Public Welfare the power to purchase, lease and hold such real and personal property as is necessary or convenient for the carrying out of its powers and duties.

Section 73-104 (b) is as follows:

"The State Department shall:

(b) Administer all aid or services to crippled children, including the extension and improvement of services for crippled children, in so far as practicable under conditions in this state, provide for locating children who are crippled or **who are suffering from conditions which lead to crippling, and provide** corrective and any other services and **care and facilities for diagnosis, hospitalization** and after care for children who are crippled or who are suffering from conditions which lead to crippling, and supervise the administration of those services which are not administered directly by it."

You will see from the above section that the Department is vested with the power to provide facilities for hospitalization for children who are suffering from conditions which {*279} lead to crippling. This, of course, would include hospitalization for polio.

By the 1945 Appropriation Act, \$ 355,000 is appropriated to the Department for the purpose of relief and welfare.

By Section 61-608, all surplus amounts remaining in the Liquor Control Receipt Fund is appropriated to the Social Security Fund, said fund to be used by the Department of Public Welfare for relief purposes, in its discretion.

In view of the foregoing, it is my opinion that the Department may use moneys from either or both of the above mentioned appropriations to build a polio isolation ward for the treatment of children without sufficient funds to pay for specialized treatment. The Department, of course, would have to provide for the expenditure by a proper budget item.

By ROBERT W. WARD,

Asst. Atty. General