

Opinion No. 54-5901

February 10, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: C. G. Stillinger, M.D. Superintendent New Mexico State Hospital Las Vegas, New Mexico

{*341} Receipt is acknowledged of your letter dated January 23, 1954, requesting an opinion on three different questions based on Chapter 182, Section 11 of the 1951 New Mexico Session Laws, in connection with patients who are out of the hospital on convalescent leave status. Your first question is: "What is the Hospital's responsibility for patients who have moved out of the State?"

Section 11, of Chapter 182 of the 1953 New Mexico Session Laws reads as follows:

"a. The head of a hospital may release an improved patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status shall include provisions for continuing responsibility to and by the hospital. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the head of the hospital shall re-examine the facts relating to the hospitalization of the patient on convalescent status and, if he determines that in view of the condition of the patient, hospitalization is no longer necessary, he shall discharge the patient.

"b. Prior to such discharge, the head of the hospital from which the patient is given convalescent status may at any time readmit the patient. If there is reason to believe that it is to the best interests of the patient to be rehospitalized, the head of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall, **upon the endorsement by a judge of the district court of the county in which the patient is resident or present**, authorize any health or police officer to take the patient into custody and transport him to the hospital."
(Emphasis supplied)

It is the opinion of this office that as soon as a patient removes himself or herself from the jurisdiction of the State of New Mexico, and goes into another jurisdiction, the hospital loses control and jurisdiction over said patient or patients for the reason that the Board would not have any jurisdiction, say in Colorado, or in any other State of the Union. If the patient or patients refuse to come back to the hospital when ordered by the hospital, there is nothing that the hospital authorities can do about compelling said patient or patients to return to the hospital.

It is suggested that in order to clear the records of the hospital in such cases where a patient refuses to return to the hospital, and who has gone to another state, the record

should show that the case is closed, and the State refusing to honor the order, charged with the responsibility of said patient.

Your second question is: "What is the hospital's responsibility for patients who have moved about and can no longer be located?"

It is the opinion of this office that from our interpretation of the language of the above quoted statute, {*342} the hospital still maintains and has jurisdiction of every patient that is released as an improved patient on convalescent status as long as he is within the jurisdiction of the State of New Mexico, and if said patient refuses to return when ordered by the hospital, the hospital after having said order endorsed by the Judge of the District Court of the County in which the patient is resident or present, can compel the patient to return to the hospital, if he can be located.

Your third question is: "Can the hospital legally discharge such patients under the provision of Chapter 37, even though, from the facts of the case, future hospitalization may be necessary?"

It is the opinion of this office that as long as the patient or patients are not discharged and future hospitalization of patients may be necessary, they may not be legally discharged as one of the conditions for their discharge, from the specific language of the above quoted statute, is that if the patient needs future hospitalization his release would not be in the best interest of the patient or patients.

Since Chapter 182 of the New Mexico Session Laws of 1953 is a new statute, I would suggest that the attention of the Board be called to the fact that the Board should adopt rules and regulations consistent with this law tightening the conditions for the release or parole of patients from the hospital. One of the conditions should be that the patients should not leave the State of New Mexico unless upon written permission of the Superintendent, and upon the further condition that patient should report to the hospital monthly, and if deemed necessary by the Superintendent, report personally to the Institution whenever the doctor should feel that he should report for a recheck. Another rule should be passed, if your budget permits, providing for a social worker to visit the patient or patients even if they have moved to another State. This should be done periodically in order to keep in touch with the patients. Another suggestion is that the hospital should keep a complete record of every patient that is paroled or discharged in order to at all times be able to keep in touch with said patients.

We trust that this fully answers your inquiries.

By: Hilario Rubio

Assist. Attorney General