

Opinion No. 57-46

March 8, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: George Brock, Executive Director, Commission On Alcoholism, 116 East De
Vargas, Santa Fe, New Mexico

QUESTIONS

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May the Commission on Alcoholism move their principal office from Santa Fe, New Mexico to the City of Albuquerque, New Mexico?

CONCLUSION

No.

OPINION

ANALYSIS

Although the Act creating the Commission on Alcoholism, which is found at Section 46-12-1 to Section 48-12-13, N.M.S.A., 1953 Compilation, does not specifically designate where the office of the Commission shall reside, we are of the opinion that such office must be maintained in the City of Santa Fe, New Mexico.

Article V, Section 1, of the Constitution of New Mexico, states that:

". . . . The officers of the executive department except the the lieutenant-governor, shall during their terms of office, reside and keep the public records, books, papers and seals of office at the seat of government."

The question which now arises is whether the Executive Director of the Commission on Alcoholism can be considered an officer of the Executive Department of the State of New Mexico. In *Pollack vs. Montoya*, 55 NM 390, 234 P2d 336, the Court held that the Chief of the Division of Liquor Control was a public officer of the State of New Mexico. They went on to say that enumeration by the Constitution of certain officers officer constituting the **Executive department** would not necessarily deprive the Legislature of the power to create other **executive officers**, although it can not abolish any of those created by the Constitution.

In the instant case, the Executive Director of the Commission on Alcoholism is appointed to act and his duties are stated in Section 46-12-6, N.M.S.A., 1953 Compilation. His duties shall be to supervise the business and financial affairs of the Commission and to cooperate with courts, hospitals and clinics, social agencies, educational and research organizations, public health and police authorities, and members of the general public in carrying into effect the provisions of this Act. His position, created by law, has certain defined duties imposed by law, and involves the exercise of some portion of the government power and he is presumably an officer of the State rather than a mere employer.

In conclusion it would appear that our State Constitution requires that officers of the Executive Department, during their term of office, shall reside and keep the public records, books, papers and seals of their office at the seat of government, which is the City of Santa Fe, State of New Mexico. We believe the Executive Director of the Commission of Alcoholism to be an executive officer, and must therefore reside and maintain his office in Santa Fe, New Mexico.