

Opinion No. 58-86

April 25, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Assistant Attorney General

TO: Dr. Stanley J. Leland, Director, New Mexico Department of Public Health, Santa Fe, New Mexico

QUESTION

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Section 12-2-10, N.M.S.A., 1953 Compilation, provides in part as follows:

"He shall possess the same powers with respect to the preservation of the public health and the administration and enforcement of the health laws as it is conferred upon the State Department of Public Health, except that said powers shall be exercised within his jurisdiction only and in subordination to and with the approval of the State Department of Public Health."

What powers are conferred upon the District Health Officers by the above quoted language?

CONCLUSION

See opinion.

OPINION

ANALYSIS

Section 12-2-10, of which the above quoted language is a part, provides as follows:

"The jurisdiction and powers of the district health officer shall extend to all incorporated municipalities within the district, as well as to the unincorporated area of the district, and all municipal public health or sanitation personnel and all school health personnel (not physical education personnel) shall work under the direct supervision and control of, and shall make such reports to the district health officer as he may direct, insofar as it affects the public's health. He shall possess the same powers with respect to the preservation of the public health and the administration and enforcement of the health laws as those conferred upon the state department of public health, except that said powers shall be exercised within his jurisdiction only and in subordination to and with the approval of the state department of public health. He shall be charged with the execution within his jurisdiction of the health laws and all rules and regulations

promulgated by the state board of public health, be under its supervision and control and make such reports to the state department of public health as it may direct and shall at all times perform such duties and execute such policies and programs as may be directed by the state board of public health."

The above quoted statute is clear and unambiguous. It confers upon the various District Health Officers **in their respective districts** all the powers relating to the preservation of the public health and the administration and enforcement of the health laws that are conferred upon the State Department of Public Health by the District Health Act, which is compiled under Chapter 12 of the New Mexico Statutes Annotated, 1953 Compilation.

Section 12-1-4, N.M.S.A., 1953 Compilation, sets out the activities, duties, and powers of the State Department of Public Health and may be used as a guide where applicable in ascertaining the powers of the District Health Officers. It should be noted, however, that all powers exercised by the District Health Officers must be done in subordination to and with the approval of the State Department of Public Health.