

Opinion No. 46-4918

July 1, 1946

BY: C. C. McCULLOH, Attorney General

TO: R. F. Apodaca Superintendent of Insurance State Corporation Commission Santa Fe, New Mexico

{*244} We are in receipt of your letter of July 1, 1946, relating to the inclusion of "cooperating" hospitals in the advertising now being used by the Hospital Service, Inc., together with several exhibits. Exhibit 2, being the certificate issued by Hospital Service, Inc., lists certain member hospitals. Below, the following appears:

COOPERATING
HOSPITALS
ALBUQUERQUE RATON
N. M. Osteopathic Donovan
Hospital Hospital

Exhibit 3 is an outline of the hospital service plan. In item (g), under definitions, the following appears:

"Cooperating hospital shall refer to a hospital which has no contract with Hospital Service, Inc., but has agreed to render service to its member patients."

You ask our opinion as to whether the proposed "agreement" is permissible under Section 60-1001, etc. of the 1941 Compilation.

Reference is made to my letter of even date relating to the cooperative arrangement between Hospital Service, Inc. and New Mexico Physicians Service, in which I point out that the only right or duty vested in you in connection with hospital service plans is the right to designate additional hospitals qualified to become member hospitals, the right to regulate the rates charged by the Hospital service corporations to their subscribers, and the right to regulate the rates of payment to member hospitals made by such hospital service corporations.

While the above mentioned law does not specifically authorize an agreement for a hospital to cooperate without becoming a member, yet it does not prohibit such an agreement. In any event, since you are given only the jurisdiction noted above, it does not appear to me that you have authority to approve or disapprove such a contract.

By ROBERT W. WARD,

Asst. Atty. General