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ARIZONA ATTORNEY GENERAL

September 11, 1951
Op. No. 51-247

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JW
9/12/51
Superintendent, Arizona State Hospital
2500 East Van Buren Street
Phoenix, Arizona

Dear Sir:

We have your letter of August 22 over the signature of the late Dr. Anderson requesting an opinion from this office as to whether or not the prohibition of Sections 56-103 and 56-104 ACA 1939 apply to the employment of professional people such as psychiatrically trained physicians. Dr. Anderson also requested our opinion as to the liability of the hospital for losses of personal clothing and eyeglasses belonging to hospital attendants and which are destroyed by disturbed mentally ill patients.

Section 56-103 ACA 1939 provides as follows:

"No person not a citizen or ward of the United States shall be employed upon or in connection with any state, county or municipal works or employment; provided, that nothing herein shall be construed to prevent the working of prisoners by the state or by any county or municipality thereof on street or road work or other public work."

The wording of the above statute is, we believe, quite plain and even though the applicant which Dr. Anderson had in mind has taken out his first papers for citizenship, we are of the opinion that said applicant cannot be employed by the hospital in any capacity. While it is true that the taking out of papers for citizenship and application therefor has some bearing upon many legal rights and privileges of the applicant, nothing short of actual citizenship as decreed by the court of competent jurisdiction would satisfy the requirements of the above statute.

The prohibition found in Section 56-104 applies only as to mechanics and laborers. Thus we are of the opinion that the hospital may employ professional people such as psychiatrically

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trained physicians, provided said people are citizens of the United States and even though they are not citizens of this state for one year prior to the employment.

Concerning the second question, we are of the opinion that the hospital is not liable for losses of personal clothing and eyeglasses belonging to hospital attendants and which are destroyed by disturbed mentally ill patients. The hospital is an agency of the state and possesses the sovereign immunities of the state in this respect. However, in line with our conversation with Dr. Anderson concerning this matter, we are of the further opinion that the hospital may make provisions to reimburse attendants for such losses if it so desires. This reimbursement would be in the nature of a provision for safe conditions of employment. It could well be a desirable policy to reimburse attendants for such losses.

We trust that the foregoing has satisfactorily answered your questions.

Very truly yours,

FRED O. WILSON
Attorney General

CHARLES C. STIDHAM
Assistant Attorney General

CCS:f

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