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LETTER

December 31, 1959

H. B. Daniels
Registrar

Mrs. E. B. Thode
State Representative
913 North Olive Drive
Casa Grande, Arizona

Re: Acceptance of Grant by the
Department of Health for salary
of tuberculosis control officer.

Dear Mrs. Thode:

This is in reply to your letter of inquiry dated December 12, 1959, relating to the above captioned topic. We have, for convenience, separated your questions into three separate problems and have discussed them.

The first question is:

"May the Department of Health receive or accept a donation or grant of money for the tuberculosis program?"

Our conclusion is Yes. This conclusion is based on the following statutory authorities. Under A.R.S. § 36-138, the Legislature established what is commonly designated as "public health fund". The significant portion of subsection A thereof reads:

"A. The public health fund shall consist of appropriations and receipts from any other source * * *. The state treasurer shall receive and disburse monies donated or provided for the department by any person, town, city, benevolent organization or other agency for public health work, * * *"

This is a general provision allowing the Health Department to receive grants or donations. Donations or gifts for tuberculosis control is provided under A.R.S. § 36-262. The Legislature has provided that:

"The state department of health is designated the official state agency to receive, administer and expend any funds granted, contributed or made available by the federal government, appropriated by the state or received from any other sources for the treatment, prevention or control of tuberculosis, * * *"

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These statutes, read together, obviously empower the state department of health to accept or receive gifts, grants or donations from "any * * * sources for treatment, prevention or control of tuberculosis."

The second question is:

"May these gifts be used to pay the salary of the tuberculosis control officers?"

The answer to this inquiry is in the affirmative. The tuberculosis officer is a statutory officer. A.R.S. § 36-714 provides that:

"The tuberculosis officer shall be appointed by the state board. * * *"

Under subsection A of A.R.S. § 36-138 it is provided that the salaries of the department shall be paid from the fund. The "fund" includes gifts, grants and donations from "any other sources" made to the department for its use.

It is clear that the intention of the lawmakers of this state was to use funds from "any other sources" for the payment of salaries of persons employed by the Health Department. The tuberculosis control officer is an employee of the State Department of Health. Therefore, he may be paid from gifts or donations received by the department for tuberculosis prevention and control.

The final question is:

"May the gift or donation be paid directly to the tuberculosis officer for his salary or must it be paid to the State Department of Health?"

A cursory reading of the applicable statutory provision constrains us to conclude that the grant cannot be paid directly to the tuberculosis control officer.

A.R.S. §§ 36-138 and 36-262 removes any doubt in our minds that any money can be paid directly to the control officer. A.R.S. § 36-138, the relevant part thereof reads:

"* * * Disbursements therefrom shall be made upon claims signed by the commissioner of public health
* * *"

And A.R.S. § 36-262 provides that money given as gifts, donations or grants are received and expended by the Department of

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Health. These funds become a part of the "public health fund." Hence, they are received and disbursed as all other monies constituting the "public health fund" are disbursed.

We trust this will be of some help to you.

Very truly yours,

WADE CHURCH
The Attorney General

H. B. DANIELS
Assistant Attorney General

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