

September 20, 1943.

Mr. Milton G. Anderson
County Attorney
Richland County
Sidney, Montana

Dear Mr. Anderson:

You have requested my opinion concerning the proper procedure to be followed in committing a drug addict to a state hospital or institution for the treatment of the addiction.

You have called my attention to the provisions of Section 3195, Revised Codes of Montana, 1935, which provides for the arrest, examination and commitment of drug addicts to an institution for treatment. This section provides a summary procedure and does not require that the person committed be of unsound mind.

You have also referred to Chapter 128 of the Political Code of the Revised Codes of Montana, 1935, which provides for the establishment of hospitals for inebriates. Section 1447 of Chapter 128 reads as follows:

"Said hospital for inebriates shall receive all patients regularly committed to it who are dipsomaniacs, inebriates, or who are addicted to the excessive use of morphine, cocaine, or other narcotic drugs, and who shall have been regularly examined and found of unsound mind as a result of the use of any such intoxicant or drug."

It is to be noted that Section 1447 requires that the hospital shall receive all patients committed to it "who shall have been regularly examined and found of unsound mind as a result of the use of any such intoxicant or drug." In other words, under this section it is the insanity as a result of the use of drugs that authorizes the commitment to the hospital.

Under the provisions of Section 3195 the addiction to the use of drugs and not unsoundness of mind justifies the arrest, examination and commitment to a hospital for treatment of persons complained against.

The sections of the code in question are not necessarily inconsistent and do not conflict. It is the policy of the courts to harmonize legislative enactments when possible. (L. G. & A. Co. v. Industrial Accident Board, 82 Mont. 304, 266 Pac. 1103.)

Opinion No. 125.

Drug Addicts, Commitment of—Insane Persons, Commitment of—State Hospital at Warm Springs.

Held: Persons addicted to the use of drugs may be arrested, examined and committed to a hospital, including the state hospital at Warm Springs, for treatment under the provisions and procedure set out in Section 3195, Revised Codes of Montana, 1935. A person who is of unsound mind as a result of the use of drugs may be committed to the state hospital. The procedure to be followed in such a case is the same as in other insanity cases and the hearing is to be conducted in the manner prescribed by Sections 1431 to 1435, Revised Codes of Montana, 1935, as amended by Chapter 117, Laws of 1939, and Chapter 157, Laws of 1943.

It is my opinion therefore that persons addicted to the use of drugs may be arrested, examined and committed to a hospital, including the state hospital at Warm Springs, for treatment under the provisions and procedure set out in Section 3195, Revised Codes of Montana, 1935. A person who is of unsound mind as a result of the use of drugs may be committed to the state hospital. The procedure to be followed in such a case is the same as in other insanity cases and the hearing is to be conducted in the manner prescribed by Sections 1431 to 1435, Revised Codes of Montana, 1935, as amended by Chapter 117, Laws of 1939, and Chapter 157, Laws of 1943.

Sincerely yours,
R. V. BOTTOMLY
Attorney General