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COURT CONSTRUES NEW MEXICO ACT CREATING HEALTH AUTHORITIES.

The Supreme Court of New Mexico has decided¹ that the State department of health can perform health work within a county and charge the county therefor when the county fails to appoint a health officer who meets with the approval of the State department of health.

The law provides that each board of county commissioners shall appoint a county health officer, said appointment to be subject to the approval of the State department of health. The law also enumerates in detail the powers of the State department of health, and declares it shall have power "to supervise the work of local health authorities; to promulgate rules and regulations governing the same; and to perform the said work in case said authorities fail, neglect, or refuse to do so, at the expense of the county or municipality affected."

The county of San Miguel appointed a health officer, but the appointment was disapproved by the State department of health. No other person was appointed by the county, and the State department of health performed the health work within the county and presented a claim therefor to the county, which claim the county refused to pay. This raised the question as to whether the county, by failing to appoint another health officer who would meet with the approval of the State department of health, had failed, neglected, or refused to perform the work. Regarding this the court said:

* * * The State department, under section 12, has the power to approve or disapprove the appointment made by the board of county commissioners, and until the appointment is approved by the State department there is no such officer as the county health officer provided for in the act.

It follows that an appointment made by the county commissioners which the State department has not approved, prevents the work which the State department is authorized to perform under section 10 from being performed in the manner required by law, and the failure of the State department of health to approve of the appointment made by the county commissioners constitutes, in our opinion, a failure, neglect, or refusal of the local health authorities to perform the work outlined in section 10, and gives the right and authority to the State department of health to perform the work at the expense of the county.

¹ State Department of Health v. San Miguel County, 195 Pac. 805.