

County Commissioners, Powers Of. Medical Attendance, Sick, Poor and Infirm. County Physician, Employment Of. Non-Resident Physician, When Eligible. Resident Physician, Defined.

County Commissioners should contract with some practicing physician residing within the county to furnish medical attendance to sick, poor and infirm, etc., of the county.

Helena, Montana, Dec. 19, 1907.

Hon. Florian A. Carnal,
County Attorney,
Fort Benton, Montana.

Dear Sir:—

I am in receipt of your favor of the 17th inst., submitting the question as to whether the Board of county commissioners can legally enter into a contract with a physician not residing within the county "to furnish

medical attendance to the sick, poor and infirm of the county, and inmates of the county jail" etc.

Section 3206, Political Code, referred to by you, provides that the board must make such contract with "some resident practicing physician." We understand that the word "resident" as used in the section, means a resident within the jurisdiction of the Board, and that the term resident practicing physician means a practicing physician residing within the county, and that the board has no authority to make such a contract with a physician who does not reside within the county.

It is possible that conditions may arise which would justify a departure from this rule, for the Board is charged with the duty of protecting the interests of the county. Local physicians may refuse to enter into such a contract at all, or might make demands so exorbitant as to be beyond reason. All these are questions of fact, and before the board can justify itself in letting a contract to a non-resident it would certainly be required to show affirmatively that some condition existed which would justify a departure from the "ordinary and excepted meaning of the language" used in said Section 3206.

Very truly yours,

ALBERT J. GALEN,
Attorney General.