

Contagious Diseases, to Be Cared for by County Board of Health. Board of Health, County to Care for Contagious Diseases. State Board of Health, Vaccination Order by. Vaccination, May Be Ordered by the State Board of Health. Schools, Vaccination of Persons Frequenting.

It is the duty of the board of health of a county to care for persons suffering from contagious diseases where they are personally unable to provide for themselves. The state board of health may order persons frequenting schools to be vaccinated, where smallpox exists, or is threatened, and may close schools where the order is violated.

Helena, Montana, February 8, 1910.

Dr. Thomas D. Tuttle,
Helena, Montana.

Dear Sir:—

The letter of Doctor D. J. Donohue, Glendive, Montana, under date of January 31, has been referred to me for opinion concerning certain questions, as follows:

“1. What is the duty of the county authorities to take charge of contagious diseases occurring in the county?”

This question is followed by a statement of facts that a number of men are employed in railroad construction work in Dawson county, and that contagious diseases arising in the camps are not cared for by the county authorities.

“2. Is it the duty of the school board to enforce vaccina-

tion of persons entering the schools?"

The care of contagious diseases rests primarily upon the county in which such diseases occur, except in cases where a local or city board of health has been established, when the care of contagious diseases occurring within the city rests upon the municipality.

Chapter 117, session laws of 1909, amends sections 1497, revised codes. The amendments read in part as follows:

"The county shall be liable for all expenses necessarily incurred by any local board of health with respect to any person not a resident of the city or town, and the city shall be liable for all expenses necessarily incurred by any county board of health with reference to any person except paupers who are residents of such city or town."

And, again:

"The city or town shall be liable for all expenses incurred with reference to residents of such city or town, except paupers and the county shall be liable for all expenses incurred with reference to persons who are not residents of such city or town."

In an opinion, dated April 2, 1908, directed to yourself, and reported on page 258, opinions of the Attorney General, 1906-08, it is said:

"You are therefore advised that it is the duty of the county health officer to take exclusive charge and control of all sanitary matters outside the corporate limits," etc.

Of course, where the ability exists in the patient to care for himself the expenses should rest upon the individual, as in cases of other sickness, rather than upon the county. But in cases of contagious diseases, where the patient is unable through lack of means to care for himself, then the duty rests upon the county to provide this care.

With regard to the second question, section 1504 is determinative. In general this statute provides that whenever smallpox exists, or is threatened in any part of the state, the state board of health has authority to require all persons frequenting any schools to be vaccinated, or to present conclusive evidence of vaccination with cow pox. And further provides that no person shall be admitted to the schools where such order prevails unless the order is complied with. The only matter which it is necessary for the state board of health to determine is as to whether or not smallpox exists in any particular part of the state, or whether it is there threatened, and if determined in the affirmative, then an order may be made requiring vaccination of all persons who frequent the schools of that district. In the event of a disregard of such order of the board of health, in a proper case, and the refusal of school trustees to require vaccination at all, the state board of health undoubtedly has authority, under the police power of the state, to peremptorily close such schools until the order is complied with or the cause thereof is removed.

Very truly yours,

ALBERT J. GALEN,
Attorney General.