

**Board of Health, Local, Powers Of. Board of Health, Orders made By.**

Local or county boards of health have authority to make and enforce orders preventing the distribution of impure ice and may condemn an ice pond as a source of filth or cause of sickness.

February 14, 1911.

A. P. Heywood, Esq.,  
County Attorney,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of February 10th, 1911, wherein you state that the local board of health of Lewis and Clark county served upon one, C. B. Anderson, notice directing him not to cut, sell or offer for sale ice from a certain pond, which order is being violated. You ask my opinion upon this state of facts.

I am of the opinion that if the ice from this pond has been condemned by the local board of health as a source of filth or cause of sickness, the order is entirely proper and a violation thereof should be prosecuted.

Under Section 1484, local boards of health are given the same authority as county boards of health. Under Section 1492 a county health officer is given the same power and must perform the same duties in the county outside of the limits of incorporated towns and cities as are provided for a local health officer within the limits of cities or towns. Section 1494 describes the duties of the county board of health, one of which is that they shall establish sanitary rules and

regulations for the prevention of disease. The same section provides the penalty for neglect or refusal to comply with such rules. These statutes relate to the municipal boards of health as distinguished from the state board of health, and in the case in question have full power to make any necessary regulations to prevent the spread of disease through the agency of infected ice.

Sections 1559 to 1572, which chapter is an enactment of the laws of 1907, provide especially for the protection of the public water supply and confers jurisdiction in that regard upon the state board of health. None of the sections last referred to, however, repeal either expressly or by implication the sections of Article I, beginning with Section 1474. As the matter is one which involves or may involve the public health and safety, I would advise you to prosecute for the violation of this order of the local board of health, even though you may be personally of the opinion that it is a matter within the exclusive control of the state board of health, who have made no order in the premises, except that on November 18th the minutes of the state board of health show that all matters concerning the ice supply of cities and towns of the state were referred to the local board for action.

Yours very truly,

ALBERT J. GALEN,

Attorney General.