

County Health Officer, Appointment Of. Health Officer, Appointment Of. County Physician, Contract With. Physician of County, Contract With. Board of County Commissioners, Duty Of to Contract With County Physician. County Commissioners, Duty Of to Appoint Health Officer.

Under the provisions of Sec. 4092 of the Revised Codes, county commissioners are authorized to appoint a county health officer, and under the provisions of Sec. 2056 it is made the duty of the board of county commissioners to contract with some resident physician for medical attention upon the sick, poor and infirm of the county. Such contract is mandatory upon the board, but it is not required to advertise for bids for such attendance.

A contract as county physician may be made with the physician appointed as county health officer, as the two positions are not incompatible.

February 24, 1911.

Hon. Justin M. Smith,
County Attorney,
Bozeman, Montana.

Dear Sir:

I am in receipt of your letter of the 23rd inst., relative to the proceedings had by the board of county commissioners of Gallatin county, with respect to the appointment of a county health officer and their contract with a physician as county physician.

After carefully considering the matters set forth in your letter, I concur with you in the opinion you rendered your board to the effect that their action in contracting with Dr. Brewer as county physician in accordance with the provisions of Section 2056, Revised Codes, was proper and entirely within their authority and also that they acted entirely within their authority in the appointment of Dr. Brewer as county health officer in accordance with the provisions of Section 1492 of the Revised Codes. I would add, however, that these contracts or appointments must be separate and distinct. The provisions of Section 2056 relate to a contract with a resident practicing physician for the medical attention upon the sick, poor and infirm of the county, but the designation of a county health officer is to be had in accordance with a different provision of the Code and would be a separate arrangement, the appointment being made at a meeting of the commissioners and the salary to be paid fixed by the board of commissioners in accordance with the provisions of the said Section 1492.

The county commissioners of your county did more than they are required to do under the law in advertising for bids for medical attendance upon the county poor. The code provides relative to the care of the poor for the advertising and calling for bids for the care and maintenance of the sick, poor and infirm of the county but does not require that bids be invited for medical attendance—the statute simply making it mandatory upon the board at their December meeting to enter into a contract, and in view of that fact, the board of county commissioners of Gallatin county acted more than fairly towards resident physicians of the county and their action in entering into a contract with Dr. A. D. Brewer was entirely within their legal authority. In addition to the above, I would respectfully refer you to Vol. 2, Opinions of Attorney General, page 201, and Volume 3, Opinions of Attorney General, page 6, where matters similar to this have been heretofore discussed and opinions rendered thereon by this department.

Yours very truly,

ALBERT J. GALEN,
Attorney General.