

Opinion No. 80**County Physician—County Health Officer—Insanity Hearings—Compensation.**

HELD: The duties of county physician or county health officer have nothing to do with the physicians called in by the District Judge, or by the chairman of the Board of County Commissioners, in insanity hearings. A physician called in on such hearings, even though he be the county physician or health officer, is entitled to the compensation provided for in Section 1441, R. C. M. 1921.

February 15, 1933.

You have requested my opinion as to whether the county physician and county health officer, who, in your case, is one and the same party, may make a charge of five dollars for mental examination and ten dollars for physical examination of any party who is before the board of county commissioners or the district judge in an insanity hearing.

Section 4527, R. C. M. 1921, provides that a board of county commissioners may contract for medicine, etc., for the county poor, and such contract may be made with the county physician and county health officer.

The duties of the county health officer are provided for in Section 2476, R. C. M. 1921, as amended by Chap. 93, Laws of 1931, and there is nothing in either of these provisions of the statutes referring to any duties of the county physician or county health officer in regard to insanity hearings. Insanity hearings are provided for in Sections 1431 and 1443, inclusive, so far as the provisions of the statutes relate to the questions you submit.

Section 1433 is as follows: "The judge, or in case of his absence, the chairman of the board of county commissioners, must also issue subpoenas for at least two graduates of medicine to appear and attend such examination."

Section 1435 is as follows: "The physicians must hear such testimony, and must make a personal examination of the alleged insane person."

Section 1436 relates to the certificate which should be issued by the examin-

ing physicians. While it does not require a report on the physical condition it does require a report of symptoms. We are not sufficiently familiar with the problem to know whether or not a physical examination may sometimes be necessary in order to determine insanity, but if it is necessary, then we think that it is a part of the services commanded by Section 1435 and that the fees provided for in Section 1441 plus the mileage are all the compensation which the board is authorized to pay.

The opinion of this office is that the duties of the county physician or county health officer have nothing to do with the physicians called in by the district judge or the chairman of the board of county commissioners in insanity hearings and that physicians called in on such hearings are entitled to the compensation provided for in Section 1441. Whether the particular physician called in happened to be the county physician or county health officer is immaterial.