

Opinion No. 218.**Public Welfare—County Commissioners—Medical Aid—Osteopathic and Chiropractic Services.**

HELD: Under the Public Welfare Act, the county commissioners must provide osteopathic and chiropractic services for relief clients.

March 22, 1940.

Mr. H. B. Landoe
County Attorney
Bozeman, Montana

Dear Sir:

You have asked for an interpretation of Section VI of Part II of Chapter 82, Laws of 1937, as amended by Section 15, Chapter 129, Laws of 1939. The section referred to is a portion of the Public Welfare Act and reads as follows:

“Medical aid and services and hospitalization for persons unable to provide such necessities for themselves are hereby declared to be the legal and financial duty and responsibility of the board of county commissioners, payable from the county poor fund. It shall be the duty of the board of county commissioners to make provision for competent and skilled medical or surgical services as approved by the state board of health or the state medical association, or in the case of osteopathic practitioners by the state chiropractic association. ‘Medical’ or ‘medicine’

as used in this act refers to the healing art as practiced by licensed practitioners.”

The amendment enacted by the Twenty-sixth Legislative Assembly merely added the words, “or in case of osteopathic practitioners by the State Osteopathic Association or chiropractors by the State Chiropractic Association,” otherwise, the previous law was left unchanged.

Long before the enactment of the Public Welfare Act the people recognized the duty of each county to care for its poor and indigent residents and to provide medical aid and assistance to those unable to provide such necessities for themselves. Chapter 347 of the Political Code, R. C. M., 1935, makes provision for the care of the county poor and Section 4527, R. C. M., 1935, set forth the conditions under which the board of county commissioners may contract for medicines and medical attention. According to this section the board must annually at its December meeting contract with some resident practicing physician to furnish necessary medical attention to the poor who are sick and infirm. or the board may let such a contract to the county health officer and give him an additional compensation for his extra services.

Gallatin county, through its board of county commissioners, enters into such a contract with a resident physician and surgeon under authority of Section 3527. Prior to the enactment of Section 15, Chapter 129, Laws of 1939, this was all that was necessary. In providing a county physician the board of county commissioners complied with Section 4527 and also provided the medical aid required by the Public Welfare Act.

However, the Twenty-Sixth Legislative Assembly by amending Section VI, Part II, of Chapter 82, as it did, clearly evinced an intention to provide osteopathic and chiropractic treatment to needy people requiring such attention. But the amendment noted did not change the provisions of Section 4527. So far as the law now stands, the counties must continue to provide for a county physician under annual contract. In addition they must be prepared to provide osteopathic and chiropractic treatments to those eligible to receive them. This means that the

county provides ordinary medical attention through the county physician but must also make available osteopathic and chiropractic services. Since the law does not provide any specific manner in which such services may be arranged the means of providing osteopathic and chiropractic services are left to the sound discretion of the board of county commissioners.