

Opinion No. 38.**Public Welfare, disclosure of information—County Physician.**

Held: A county physician is entitled to receive from the Department of Public Welfare a list of the names of the recipients of public assistance for use in the performance of his duties as county physician, and if the list is used for any purpose other than is indicated the county physician would be guilty of a misdemeanor.

April 7, 1943.

Mr. John D. Stafford
County Attorney
Cascade County
Great Falls, Montana

Dear Mr. Stafford:

You have inquired as to whether it is possible for the county physician to obtain a list of the names of all of the old age pensioners and indigent poor of Cascade County from the local welfare office for the use of the county physician in his office.

The last paragraph of subsection (c) of Section 3 of Part I of Chapter 82, Laws of 1937, as amended by Chapter 117, Laws of 1941, provides:

“The use or disclosure of information concerning applicants or recipients of old age assistance, of aid to the blind or of aid to dependent children for purposes not directly connected with the administration of these forms of assistance, shall be unlawful, and shall constitute a misdemeanor. The state department of public welfare shall adopt all rules and regulations necessary to give effect to this provision.”

The State Department of Public Welfare has, pursuant to the authority vested in it by the above quoted act, promulgated rules found in general bulletin 89, issued under date of January 21, 1942. A part of these rules reads as follows:

"EXCEPTIONS AND BASIS FOR DISCLOSURE

"Approved in public welfare administration sanctions the releases of information to another agency from whom the applicant or recipient has requested certain services, and whose objective is the protection or advancement of the welfare of the applicant, such disclosure can be made on the theory that the request constitutes an actual or implied consent on the part of the applicant or recipient to the release of relevant information to such agency and a recognition that the release is for the applicant's benefit.

"On this basis, information would be made available to such agencies or services as: Old Age and Survivors Insurance, Employment Services, Works Projects Administration, Surplus Marketing Administration, Vocational Rehabilitation Services, Medical Care, Child Welfare, Selective Service Board, and other welfare agencies.

"APPLICATION OF THESE RULES AND REGULATIONS

"The rules and regulations herein set forth for the safeguarding of information pertaining to applicants and recipients of public assistance are promulgated under, and by virtue of authority vested in, the State Department by Chapter 117, Session Laws, 1941, and shall apply and be binding upon all employees of the State Department of Public Welfare, the County Departments of Public Welfare, the members of the County Boards of Public Welfare, and any other agency or department of government, who under provisions of law, have access to names and addresses of applicants and recipients of public assistance. The use of public assistance information in violation of these rules and regulations is by law a misdemeanor."

Under the provisions of Section 4527, Revised Codes of Montana, 1935, the county physician is duty bound to furnish medical assistance to the sick,

poor and infirm of the county and to the inmates of the county jail.

The rules adopted by the Department of Public Welfare are within the powers granted under the act, and under these rules the county physician would be entitled to a list of the recipients of public assistance for use only in connection with his work as county physician. **If some other use is made of this list the county physician would be guilty of a misdemeanor.**

Sincerely yours,
R. V. BOTTOMLY
Attorney General