

**Opinion No. 76****County Hosiptal, Authority to Lease Building for County Commissioners, Authority to Lease Building for County Hospital Purposes.**

**Held:** Where there are no hospital facilities at all in a county and the board of county commissioners exercising their sound judgment and discretion, determine that it is for the best interests of the county and necessary to provide such hospitalization for the indigent sick, they have the power and authority to lease a building or a part of a building for such county hospital purposes.

November 10, 1947

Mr. Robert T. Pantzer  
County Attorney  
Liberty County  
Chester, Montana

Dear Mr. Pantzer:

You have submitted the following question:

"May the board of county commissioners, for the purpose of establishing a temporary county hospital, lease a building or a portion of a building and establish and furnish such hospital where, at the present time the county has no hospital nor is there a public or private hospital within the county and a great needs for the same being present."

It appears to me that your question is answered by the provisions of Section 4465.7, Revised Codes of Montana, 1935, which in part is as follows:

"The board of county commissioners has jurisdiction and power under such limitations and restric-

tions as are prescribed by law: to . . . lease any real or personal property necessary for the use of the county. . . ."

I call your attention to the holding of our Supreme Court in the case of *Bennett v. Petroleum County, et al.*, 288 Pac. 1018, 87 Mont. 436, at page 445 of the decision, wherein the Court states:

"The board of county commissioners is clothed with authority to lease any real property necessary for county purposes. . . ."

"The necessity for leasing the property in question was, in our opinion, addressed to the sound judgment and discretion of the board of county commissioners. . . ."

From the foregoing statute and the decision of our Supreme Court construing the same, it appears that when, as in your case, there is no county hospital or any other hospital within your county, and the board of county commissioners in their sound discretion find that it is necessary to have a county hospital for the purpose of caring for the indigent sick, as require dunder Section 4465.4, Revised Codes of Montana, 1935, they may lease a building or a part thereof and furnish the same for the purpose of providing hospitalization for such people.

It is, therefore, my opinion that where there are no hosiptal facilities at all in a county and the board of county commissioners, exercising theirs sound judgment and discretion, determine that it is for the best interests of the county and necessary to provide such hospitalization for the indigent sick, they have the power and authority to lease a building or a part of a building for such county hospital purposes.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General