

497.

APPROVAL, NOTES OF SCHOOL DISTRICTS IN ASHTABULA, BROWN,
CLERMONT, HOCKING, NOBLE AND TRUMBULL COUNTIES.

COLUMBUS, OHIO, May 16, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

498.

PROBATE COURT—SECTION 1981, GENERAL CODE, CONSTRUED—
FEES OF PHYSICIANS.

SYLLABUS:

Under the provisions of Section 1981, General Code, the two physicians designated by the probate court to make the examination are each entitled to the fee of five dollars and witness fees as allowed in the court of common pleas irrespective of whether the patient is adjudged insane or is not adjudged insane.

COLUMBUS, OHIO, May 17, 1927.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

“In the law governing hearings in insanity cases, Section 1954, G. C., provides that the Probate Judge following the filing of the affidavit and the issuance of a warrant for bringing the alleged insane person into court shall immediately ‘issue subpoenas for such witnesses as he deems necessary, two of whom shall be reputable physicians.’

Section 1956 further provides that—‘upon the hearing of the testimony, if he is satisfied that the person charged is insane, he shall cause a certificate to be made out by two medical witnesses in attendance that the person is insane to the best of their knowledge and belief.’

The medical certificate contemplated by this section is prepared by the physicians on forms prescribed by this Department.

Section 1981, G. C., provides for the record, fees, costs and expenses in lunacy cases, and states ‘* * * to each of two physicians designated by the court to make the examination, \$5.00 and witness fees as allowed in the court of common pleas, to be paid upon the certificate of the probate judge.’

We respectfully request your opinion on this question:

Are the two physicians designated by the Probate Court to make the examination entitled to the fee of \$5.00 and witness fee irrespective of whether the accused is adjudged insane or is not adjudged insane.

An opinion was rendered by the Attorney General on July 2, 1920,